SENATE

MONDAY, *April 9, 1928*

The Chaplain, Rev. ZeBarney T. Phillips, D. D., offered the following prayer:

Almighty God, who through Thine only begotten son, Jesus Christ, hast overcome death and opened unto us the gate of everlasting life, fill our souls with such a deep sense of the mystery of His resurrection that we may find new evidence of our Easter truth in these sighings and yearnings which can not be uttered, these dreams which the daylight can not melt, these shadows which never alight and never pass, these presences not felt and not to be put by, these airs from heaven so unresisting and so irresistible, these utterances of the soul which are never loud nor are ever silenced. Strengthen our valor in all conflicts of this mortal life, that we Thy immortal sons may come at last to the glory of Thy kingdom, where sorrow and sighing shall be no more and the tyranny of strife shall be overpast. Grant this for the sake of Him who is the resurrection and the life, Jesus Christ our Lord. Amen.

The Chief Clerk proceeded to read the Journal of the proceedings of Friday last and of Sunday, when, on request of Mr. CURTIS and by unanimous consent, the further reading was dispensed with and the Journal was approved.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Haltigan, one of its clerks, announced that the House had passed without amendment the following bill and joint resolution:

S. 3435. An act to authorize an appropriation from tribal funds to pay part of the cost of the construction of a road on the Crow Indian Reservation, Mont.; and

S. J. Res. 95. Joint resolution authorizing the Secretary of Agriculture to dispose of real property, located in Hernando County, Fla., known as the Brooksville Plant Introduction Garden, no longer required for plant-introduction purposes.

The message also announced that the House had agreed to the amendment of the Senate to the bill (H. R. 359) authorizing the presentation of the iron gates in West Executive Avenue, between the grounds of the State, War, and Navy Building and the White House, to the Ohio State Archeological and Historical Society for the memorial gateways into the Spiegel Grove State Park.

The message further announced that the House had agreed to the amendments of the Senate to the bill (H. R. 8499) for the relief of Arthur C. Lueder.

METROPOLITAN POLICE TRIAL BOARD, DISTRICT OF COLUMBIA (S. DOC. NO. 82)

The VICE PRESIDENT laid before the Senate a communication from the President of the Board of Commissioners of the District of Columbia, transmitting in response to Senate Resolution 182 (submitted by Mr. CARAWAY and agreed to March 26, 1928), information concerning members of the Metropolitan police force charged with offenses and brought before the police trial board within the last three years, which was referred to the Committee on the District of Columbia.

Mr. CARAWAY subsequently said: I ask unanimous consent to have the report of the District Commissioners printed as a Senate document.

The PRESIDING OFFICER (Mr. SHORTRIDGE in the chair). Without objection, it is so ordered.

CALL OF THE ROLL

Mr. CURTIS. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Ashurst	Fletcher	McNary	Simmons
Bingham	Frazier	Mayfield	Smith
Black	George	Moses	Smoot
Blaine	Gerry	Neely	Steck
Blease	Glass	Norbeck	Steiwer
Borah	Goff	Nye	Stephens
Bratton	Gooding	Oddie	Swanson
Brookhart	Gould	Overman	Thomas
Broussard	Greene	Phipps	Tydings
Capper	Hale	Pine	Tyson
Caraway	Harrison	Pittman	Vandenberg
Copeland	Hayden	Ransdell	Walsh, Mass.
Couzens	Heflin	Reed, Pa.	Walsh, Mont.
Curtis	Jones	Robinson, Ind.	Warren
Cutting	Kendrick	Schall	Waterman
Dale	King	Sheppard	Watson
Dill	McKellar	Shipstead	Wheeler
Fess	McLean	Shortridge	

Mr. GERRY. I wish to announce that the junior Senator from New Jersey [Mr. EDWARDS] is necessarily detained from the Senate on account of illness in his family. I will let this announcement stand for the day.

Mr. CARAWAY. I wish to announce that my colleague the senior Senator from Arkansas [Mr. ROBINSON] is necessarily detained from the Senate on account of illness in his family.

Mr. GEORGE. I desire to announce that my colleague [Mr. HARRIS] is necessarily detained on business of the Senate as a member of the committee appointed to attend the unveiling of the Lee statue at Stone Mountain, Ga.

The VICE PRESIDENT. Seventy-one Senators having answered to their names, a quorum is present.

PETITIONS AND MEMORIALS

The VICE PRESIDENT laid before the Senate a resolution adopted by East Cleveland Post, No. 163, American Legion, of East Cleveland, Ohio, which was referred to the Committee on Military Affairs and ordered to be printed in the RECORD, as follows:

Resolution

Whereas there has been introduced in numerous sessions of Congress legislation providing for the adoption of the universal draft which has never been brought to a vote on the floor of either the Senate or the House; and

Whereas there is now pending in the House of Representatives the Johnson bill, known as H. R. 8313, and in the Senate of the United States, the Capper bill, known as S. 1289; and

Whereas numerous requests have been made for hearings before the Military Affairs Committee of both the House of Representatives and the Senate, but that these hearings have not been granted; and

Whereas the American Legion at its national conventions since 1922 have unanimously indorsed said legislation: Now, therefore, be it

Resolved, That East Cleveland Post of the American Legion of East Cleveland, Ohio, do and hereby does indorse the Johnson bill as introduced in the House of Representatives as H. R. 8313 and the Capper bill as introduced in the Senate as S. 1289, providing for the universal draft which guarantees equal service for all and special profit for none; and be it further

Resolved, That the United States Senate Committee on Military Affairs and the Military Affairs Committee of the House of Representatives be and such committees are hereby most strongly urged to permit hearings on such measures at once, if said hearings have not already been granted, and to report same favorably to their respective bodies; and be it further

Resolved, That the United States Senate and House of Representatives be and hereby are most strongly urged to pass said legislation before adjournment of this session of Congress; and be it further

Resolved, That a copy of this resolution be transmitted to the President of the United States, the Vice President of the United States, the Senators from Ohio, and the Representatives from Cuyahoga County.

It is hereby certified that the foregoing resolution was duly passed by East Cleveland Post, No. 163, of the American Legion, at its regular meeting on April 3, 1928.

JAMES V. SUHR,
Post Commander.
LELAND L. WHITNEY,
Post Adjutant.

Mr. BINGHAM presented the memorial of the prison officials committee remonstrating against the passage of the so-called Hawes-Cooper bill, which was referred to the Committee on Interstate Commerce and ordered to be printed in the RECORD, as follows:

(Prison officials committee: L. H. Putnam, chaiman, director of State institutions, statehouse, Providence, R. I.; Dr. L. M. Robinson, secretary, warden West Virginia Penitentiary, Moundsville, W. Va.)

A protest against the passage of Hawes-Cooper bill, House bill No. 7729, Senate bill No. 1940

To Members of Congress:

We respectfully petition you not to pass Senate bill 1940, introduced by Senator HAWES, of Missouri, nor H. R. No. 7729, introduced by Representative COOPER of Ohio.

In our deliberate judgment these acts are not only unnecessary, unwise, and unconstitutional, but if passed will destroy the penal system built up in a large majority of the States of the Union after years of experimenting with different systems and after the expenditure of millions of dollars by the various States.

In the Southern States cotton, grain, sugar cane, and livestock are produced on penal farms; in others turpentine and lumber are produced by convict labor; in others granite and marble are quarried and dressed, and agricultural limestone is quarried and crushed by convict labor; in Missouri and other Central States sheep, hogs, and cattle are raised and slaughtered on penal farms and the surplus sold; in Oregon flax raised on farms is processed by convict labor; in many States fruits and vegetables are raised and canned on penal farms and gardens; in the great wheat-growing States of Minnesota, Wisconsin, Kansas, Indiana, Oklahoma, Missouri, and the two Dakotas

for a great many years binder twine and farm implements have been manufactured by convict labor and sold to the farmers of those States; in other States scrub brushes, rat traps, rag rugs, and rag carpets are made by the criminal insane; in others work shirts, work clothing, overalls, work shoes, brooms, and mops are made by convict labor; in a few States coal is mined from State-owned coal mines by convict labor.

In some States juvenile offenders, male and female, are committed to houses of correction, schools of reform, orphanages, or convents, and are employed making knit goods, embroidery, baskets, books, and a variety of other wares.

The effect, if not the purpose, of the Hawes-Cooper bill is to utterly destroy the market for all these "goods, wares, and merchandise manufactured, produced, or mined, wholly or in part, by convicts or prisoners, or in any penal or reformatory institutions."

THE HAWES-COOPER BILL UNNECESSARY

There have been practiced in the United States in the past 130 years six systems of prison labor, namely: The lease system, the contract system, the piece-price system, the public account, the State-use system, and the public works and ways system.

Each system has and has had its advocates and critics, each system has both its advantages and disadvantages. The two systems which encountered the greatest amount of criticism have been the lease system and the contract system. The former in the earlier history of the Republic widely prevailed, but to-day it does not exist in any State; the contract system, which was formerly in extensive use, has gradually been superseded by other systems, and now exists in but few States, as the following table compiled by the United States Bureau of Labor Statistics, Bulletin No. 372, January, 1925, page 17, shows:

Per cent of convicts that were employed at productive labor under different systems in different years as shown by reports of this bureau

System	Year				
	1885	1895	1905	1914	1923
Lease	26	19	9	4	
Contract	40	34	36	26	12
Piece price	8	14	8	6	7
Public account			21	31	26
State use	[1] 26	[1] 33	18	22	36
Public works and ways			8	11	19
Total	100	100	100	100	100
Per cent of all convicts that were employed at productive labor	75	72	65	(2)	61

[1] Public account, State use, and public works and ways were inseparably combined.
[2] Not reported.

The individual States can be trusted to correct any defect in their penal systems, as the above table shows, and it is unnecessary for the Federal Government to attempt to coerce the States to adopt a particular system of penal management or labor.

THE HAWES-COOPER BILL UNWISE

All but four States of the Union utilize a combination of several systems of labor to meet their prison problems, and have found the practice satisfactory and in entire harmony with the public opinion and legislative policy of the respective States. To illustrate, most States utilize the State-use system in making clothing and shoes for inmates, the public works and ways system to build roads or public buildings, and utilize the surplus inmate labor under the public account, piece-price, or contract system to manufacture binder twine, produce cotton or livestock, or clothing, which is sold.

Under this system a great many penal institutions are self-sustaining, and many more are nearly so. Inmates are given a share of their earnings, which in many instances amounts for each inmate to as much as $1.50 a day which he may use for the support of his family.

Under this combined system, which prevails in more than 40 States, idleness in prison has been reduced to a minimum, inmates have been trained to habits of industry and thrift, prisoners have been rehabilitated and restored to society to live normal lives, and the taxpayers' burden has been lessened.

If the pending bill is passed and the States are compelled to adopt exclusively the State-use system of convict labor, we believe it will produce idleness instead of employment in prisons, chaos instead of order therein, will entirely destroy our markets and prison industrial organization, and will necessitate huge annual appropriations in the respective States, which heretofore have been unnecessary.

THE OSTENSIBLE OBJECTIVE OF THE HAWES-COOPER BILL

The proponents of the bill contend that the product of convict labor should not be sold in competition with outside labor, and that this competition is overcome by having convicts work for the State, or subdivisions, thereof, or manufacture articles to be used by the State, its subdivisions, or State institutions. In other words, they seek to compel the adoption of the State-use system of convict labor in every State.

The fallacy of this position is obvious. Do not school desks, chairs, blackboards, public printing and bookbinding, road signs, and automobile tags made by convict labor compete with outside labor just as truly as binder twine, work shirts, or overalls? The question answers itself.

The Hawes-Cooper bill seeks to divest prison-made goods of their interstate character and to subject them to the law of the State into which such goods may be transported.

Many years ago there were passed in 10 or 15 States acts requiring all goods made in penal institutions or produced by convict labor to be labeled "Convict made" before being exposed for sale, and in addition to this most of these acts required that a merchant handling convict-made merchandise must first obtain a license from the secretary of state before he be permitted to sell such merchandise, and the cost of the license varied from $100 to $1,000 per year. In addition to this the merchants handling convict-made goods in some of these States were required to keep a list of the persons to whom such goods were sold, and to file such lists with the secretary of state.

These acts applied to merchandise produced by convicts, whether in factory, on farm, in the dairy, or elsewhere. These acts were intended to make the selling of convict-made goods so burdensome and so expensive that no merchant could qualify to handle them.

In several suits brought to test the constitutionality of these acts they were held unconstitutional, as in violation of the commerce clause of the Federal Constitution.

However, these old acts in these 15 or 20 States are still on the statute books and have not been repealed. The manifest purpose of the Hawes-Cooper bill is to revitalize these old acts and to make effective similar acts the passage of which is to be pressed in several of the States with the same purpose and effect as the earlier statutes—that is, to destroy as far as possible all market for produce or merchandise created by convict labor.

If the Hawes-Cooper bill or any similar legislation is passed and held constitutional, each State might pass as unreasonable and as burdensome legislation affecting the sale of convict-made goods as the whims of any particular State legislature might dictate, with the result that the laws in all 48 States might differ very materially, so that any State producing or trying to sell its merchandise would have to know and comply with the law in 47 other different States.

THE HAWES-COOPER BILL UNCONSTITUTIONAL

Under the Constitution of the United States the power to regulate commerce between the States is lodged exclusively in Congress, and Congress has no power to delegate to the several States the right to regulate commerce among themselves.

The only right the several States have to interfere with or interrupt interstate commerce is in the exercise of the police power reserved to the States when the interstate commerce is immoral or fraudulent in its nature or dangerous to the public health.

The proponents of the Hawes-Cooper bill make no claim, and can not justly do so, that goods made by convicts are injurious to the morals or the health of the States.

The proponents of the Hawes-Cooper bill contend that the pending legislation is a copy of the Wilson Act of August 8, 1890, which divested intoxicating liquors of their interstate character and subjected such shipments to the laws of the State into which they should be shipped. If you will read the Wilson Act, you will see that the pending bill is not a copy of it, but that the Wilson Act expressly provided "All fermented, distilled, or other intoxicating liquors, or liquids transported into any State or Territory * * * shall upon arrival in such State or Territory be subject to the operation and effect of the laws of such State or Territory enacted in the exercise of its police powers."

We believe we express practically the unanimous opinion of prison wardens and prison boards in the United States in protesting against the passage of the pending bill, or any legislation that interferes with the respective States in handling their domestic prison problems.

There are approximately 100,000 convicts in the United States, and not more than 50,000 of them are engaged in productive labor whose products are sold on the open market. It is estimated that the amount of goods produced by convicts and sold represents not more than one-twentieth of 1 per cent of the products of outside labor; the amount of the competition is infinitesimally small.

We have the feeling that the pending bill was inspired by and its passage urged by a highly organized minority of manufacturers, who have adopted this method of stopping prison-made manufacture in only one or two lines.

We have spent years in the effort to handle the penal problem of our respective States, and we hope that our earnest opposition to this

bill will arouse you to the seriousness of the situation which would result from its passage.

Very respectfully,

John Champlin, M. D., chairman State Public Welfare Committee, Providence, R. I.; C. A. Moffett, president Board of Administration, Alabama; Hamp Draper, associate member Board of Administration, Alabama; L. M. Robinson, warden State penitentiary, Moundsville, W. Va.; D. M. Young, assistant superintendent State reformatory, Frankfort, Ky.; R. M. Youell, superintendent Virginia Penitentiary, Richmond, Va.; Henry K. W. Scott, warden State prison, Wethersfield, Conn.; Jno. B. Chilton, warden Kentucky Penitentiary, Eddyville, Ky.; J. W. Wheeler, warden State prison, Boise, Idaho; A. H. Harrison, director penal institution, Jefferson City, Mo.; Geo. Ross Pou, superintendent State prison, Raleigh, N. C.; A. F. Miles, superintendent Indiana Reformatory, Pendleton, Ind.; Joseph E. Robinson, chairman Board of Charities and Correction, Frankfort, Ky.; Thos. P. Hallowell, warden Iowa State Prison, Fort Madison, Iowa; Jno. J. Hannon, president Board of Control, Madison, Wis.; W. R. Bradford, director South Carolina Penitentiary, Columbia, S. C.; M. F. Conley, Commissioner of Prisons, Frankfort, Ky.; A. H. Macaulay, director South Carolina Prison, Columbia, S. C.; Oscar Lee, warden, Waupum, Wis.; Jno. L. Moorman, chairman Board Indiana Prison, Michigan City, Ind.; F. E. Lukens, Board of Prison Administration, Boise Idaho; Ralph Howard, superintendent Penal Farm, Greencastle, Ind.; Levin J. Chase, secretary Board of Trustees, New Hampshire; A. M. Scarborough, former president Warden's Association, Columbia, S. C.; A. L. Deniston, treasurer Board of Trustees, Michigan City, Ind.; H. M. Beard, superintendent Kentucky Reformatory, Frankfort, Ky.; Jas. N. Pearman, superintendent South Carolina Penitentiary, Columbia, S. C.; J. J. Sullivan, warden, Stillwater, Minn.; J. S. Blitch, warden, Raiford, Fla.; Walter H. Daly, warden, Michigan City, Ind.; A. F. Roach, warden, Rawlings, Wyo.; Jas. A. Lakin, chairman Prison Committee, Moundsville, W. Va.; J. N. Baumel, warden, Anamosa, Iowa; P. J. Brady, warden, Baltimore, Md.; J. I. Burnett, superintendent, Jefferson City, Mo.; E. T. Westerfelt, Board of Control, Lincoln, Nebr.; Chas. E. Linscott, warden State Prison, Howard, R. I.; W. T. Fenton, warden State Penitentiary, Lancaster, Nebr.; M. M. Barnard, General Superintendent Penal Institutions, Washington, D. C.; A. W. Miller, superintendent State Reformatory for Men, Lincoln, Nebr.; Ralph H. Walker, warden State Prison, Windsor, Vt.; Wm. H. Dyer, Commissioner of Public Welfare, Montpelier, Vt.; Harry H. Jackson, warden State Prison, Jackson, Mich.; H. S. Thorpe, Board of Control, Nebraska; W. H. Daly, warden State Prison, Michigan City, Ind.; Margaret M. Elliot, superintendent Women's Prison, Indianapolis, Ind.; J. H. Strief, Board of Control, Des Moines, Iowa; C. H. Swendsin, chairman State Board of Control, Minnesota; L. H. Putnam, Director of State Institutions, Providence, R. I.

Mr. BINGHAM also presented a petition of sundry postal employees of Willimantic, Conn., praying for the passage of Senate bill 1727, the so-called Dale retirement bill, for civil-service employees, which was ordered to lie on the table.

He also presented petitions of sundry citizens of Waterbury and Wethersfield, in the State of Connecticut, praying for the adoption of the resolution (S. Res. 139) suggesting a further exchange of views relative to the World Court, which were referred to the Committee on Foreign Relations.

Mr. WARREN presented resolutions adopted by the Lions Club of Cheyenne and Marion Tanner Post, No. 29, American Legion, of Basin, in the State of Wyoming, favoring the passage of legislation to provide for aided and directed settlement on Federal reclamation projects, which were referred to the Committee on Irrigation and Reclamation.

Mr. COPELAND presented a petition of sundry citizens of Erie County, N. Y., praying for the passage of legislation granting increased pensions to Civil War veterans and their widows, which was referred to the Committee on Pensions.

Mr. WALSH of Massachusetts presented petitions of citizens of Boston, Holyoke, Hyde Park, Roxbury, Readville, Milton, Brighton, Dorchester, and Stoneham, and sundry other citizens, all in the State of Massachusetts, praying for the prompt passage of legislation granting increased pensions to Civil War veterans and their widows, which were referred to the Committee on Pensions.

He also presented letters and telegrams in the nature of memorials from various business firms in the State of Massachusetts, remonstrating against the passage of Senate bill 3555, the so-called McNary-Haugen farm relief bill, which were ordered to lie on the table.

He also presented telegrams in the nature of petitions from Harold Howe, general secretary Young Men's Christian Association; Mildred Nelson, president Young Women's Christian Association; W. C. Sampson, president Ministerial Union; Mrs. L. A. Olney, chairman International Institute Committee; May Case Marsh, executive secretary International Institute, all of Lowell; and from Lydia M. Chace, president Young Women's Christian Association, of New Bedford, in the State of Massachusetts, praying for the passage of Senate Joint Resolution 122, providing for the reuniting of families of alien declarants, which were referred to the Committee on Immigration.

Mr. McLEAN presented telegrams and letters in the nature of petitions from the Leagues of Women Voters of Farmington, Salisbury, Ridgefield, Wallingford, and Roxbury; the Young Men's Christian Association of Hartford; the Council of Jewish Women, of New Haven; the Woman's Civil Club, of Riverside; the Connecicut Woman's Christian Temperance Union, of Bristol; the Woman's Christian Temperance Union, of Hartford; National Association of Letter Carriers, Branch No. 32, of Bridgeport; the Civic League, of New Britain; the Forum of State Normal School, of Danbury; Enfield Grange, No. 151, of Hazardville; Theodore Ainsworth Greene, minister of the First Church of Christ, of New Britain; and of sundry citizens of Waterbury, Meriden, Torrington, Washington Depot, Newington, Cromwell, and Hartford, all in the State of Connecticut, praying for the adoption of the resolution (S. Res. 139) suggesting a further exchange of views relative to the World Court, which were referred to the Committee on Foreign Relations.

FARM RELIEF

Mr. FLETCHER. Mr. President, I present a communication from Mr. J. C. Chase, of Orlando, Fla., with regard to pending Senate bill 1176 and House bill 7940, known as the McNary-Haugen farm relief bills.

I desire to say that Mr. Chase is one of the largest growers and shippers of citrus fruits in the State of Florida. I ask that his communication may lie on the table and be printed in the RECORD.

There being no objection, the communication was ordered to lie on the table and to be printed in the RECORD, as follows:

CHASE & CO.,
Orlando, Fla., April 7, 1928.

Hon. DUNCAN U. FLETCHER,
United States Senate, Washington, D. C.

Hon. PARK TRAMMELL,
United States Senate, Washington, D. C.

MY DEAR SENATORS: Referring to Senate bill 1176 and House bill 7940, known as the McNary-Haugen farm relief bills.

These bills might be good legislation and desirable for staple, unperishable goods, such as grain, corn, and cotton, but we consider they would be very unwise legislation for the perishable industry and would impose unreasonable and unjust penalties upon that industry.

The bills provide for an advisory council and a revolving fund to provide for the control of any surplus of any agricultural commodity and to purchase or construct facilities for storage, sale, or disposition of such commodities.

Fresh fruits and vegetables can not be, owing to their perishable nature, classed with staple crops, like wheat, corn, and cotton, and it seems to us an exception should be made to these commodities in treating with this legislation.

Some fruits and vegetables are suitable for temporary storage, while others must go into immediate consumption. Some are suitable for export, while others must be sold on the domestic market. We do not feel that application of the principle outlined in these bills could be applied equitably. The best varieties and grades would, it seems to us, be compelled to bear the burden, and it might lead to encourage the slacker in the development of undesirable sizes and grades.

We believe it will appear to you that any State that may produce products which can be sold largely within the State would be relieved from the taxation on its product, while Florida would have imposed a tax on such products as they produce, practically all of which move in interstate commerce.

We respectfully urge, in the interest of the fruit and vegetable growers of this State and of the South, that you endeavor to have these bills amended to exclude their application to fresh fruits and vegetables.

Yours very truly,

J. C. CHASE.

Personal regards.

REPORTS OF COMMITTEES

Mr. SHEPPARD, from the Committee on Military Affairs, to which was referred the bill (H. R. 2284) for the relief of

Lucius Bell, reported adversely thereon and moved that the bill be indefinitely postponed, which was agreed to.

He also, from the same committee, to which were referred the following bills, reported them each without amendment and submitted reports thereon:

H. R. 1970. An act for the relief of Dennis W. Scott (Rept. No. 724); and

H. R. 10564. An act to authorize the Secretary of War to grant and convey to the county of Warren a perpetual easement for public highway purposes over and upon a portion of the Vicksburg National Military Park in the State of Mississippi (Rept. No. 725).

Mr. CAPPER, from the Committee on Claims, to which was referred the bill (H. R. 1588) for the relief of Louis H. Harmon, reported it without amendment and submitted a report (No. 726) thereon.

Mr. BLEASE, from the Committee on Military Affairs, to which were referred the following bills, reported them severally with an amendment and submitted reports thereon:

S. 2463. An act to amend an act entitled "An act for the purchase of a tract of land adjoining the United States target range at Auburn, Me.," approved May 19, 1926 (Rept. No. 727);

H. R. 6152. An act for the relief of Cromwell L. Barsley (Rept. No. 728); and

H. R. 8983. An act for the relief of William G. Beaty, deceased (Rept. No. 729).

Mr. STEIWER, from the Committee on Claims, to which was referred the bill (S. 1646) for the relief of James M. E. Brown, reported it with an amendment and submitted a report (No. 730) thereon.

Mr. WATERMAN, from the Committee on Claims, to which was referred the bill (S. 2473) for the relief of Will J. Allen, reported it without amendment and submitted a report (No. 731) thereon.

Mr. NYE, from the Committee on Public Lands and Surveys to which were referred the following bills, reported them severally without amendment and submitted reports thereon:

S. 3776. An act to authorize the Secretary of the Interior to issue patents for lands held under color of title (Rept. No. 732);

S. 3824. An act to correct the descriptions of land comprising the Bryce Canyon National Park as contained in the act approved June 7, 1924, entitled "An act to establish the Utah National Park in the State of Utah," and the act approved February 25, 1928, entitled "An act to change the name of the Utah National Park, the establishment of which is provided for by the act of Congress approved June 7, 1924 (43 Stats. 593), to the 'Bryce Canyon National Park,' and for other purposes" (Rept. No. 733);

H. R. 7223. An act to add certain lands to the Gunnison National Forest, Colo. (Rept. No. 734); and

H. R. 10038. An act for the relief of Wilford W. Caldwell (Rept. No. 735).

Mr. NORBECK, from the Committee on Public Lands and Surveys, to which were referred the following bills, reported them severally without amendment and submitted reports thereon:

H. R. 8744. An act to accept the cession by the State of Colorado of exclusive jurisdiction over the lands embraced within the Mesa Verde National Park, and for other purposes (Rept. No. 736);

H. R. 11685. An act to accept the cession by the State of California of exclusive jurisdiction over the lands embraced within the Lassen Volcanic National Park, and for other purposes (Rept. No. 737); and

H. R. 11023. An act to add certain lands to the Lassen Volcanic National Park in the Sierra Nevada Mountains of the State of California (Rept. No. 738).

Mr. CUTTING, from the Committee on Public Lands and Surveys, to which were referred the following bills, reported them severally without amendment and submitted reports thereon:

H. R. 8724. An act granting certain lands to the city of Mendon, Utah, to protect the watershed of the water-supply system of said city (Rept. No. 739);

H. R. 8733. An act granting certain lands to the city of Bountiful, Utah, to protect the watershed of the water-supply system of said city (Rept. No. 740); and

H. R. 8734. An act granting certain lands to the city of Centerville, Utah, to protect the watershed of the water-supply system of said city (Rept. No. 741).

Mr. McNARY, from the Committee on Agriculture and Forestry, to which was referred the bill (S. 3556) to insure adequate supplies of timber and other forest products for the people of the United States, to promote the full use for timber growing and other purposes of forest lands in the United States, including farm wood lots and those abandoned areas not suitable for agricultural production, and to secure the correlation and the most economical conduct of forest research in the Department of Agriculture, through research in reforestation, timber growing, protection, utilization, forest economics, and related subjects, and for other purposes, reported it with an amendment and submitted a report (No. 742) thereon.

Mr. REED of Pennsylvania, from the Committee on Military Affairs, to which were referred the following bills, reported them severally without amendment and submitted reports thereon:

H. R. 6990. An act to authorize appropriations for construction at the Pacific Branch, Soldiers' Home, Los Angeles County, Calif., and for other purposes (Rept. No. 745);

H. R. 9368. An act to authorize the Secretary of War to exchange with the Pennsylvania Railroad Co. certain tracts of land situate in the city of Philadelphia, and State of Pennsylvania (Rept. No. 743), and

H. R. 11762. An act to authorize an appropriation to complete construction at Fort Wadsworth, N. Y. (Rept. No. 744).

Mr. BROOKHART, from the Committee on Military Affairs, to which was referred the bill (H. R. 8550) to amend the national defense act, reported it with an amendment and submitted a report (No. 746) thereon.

He also, from the Committee on Civil Service, to which was referred the bill (S. 1995) placing certain employees of the Bureau of Prohibition in the classified civil service, and for other purposes, reported it without amendment and submitted a report (No. 750) thereon.

Mr. TYSON, from the Committee on Military Affairs, to which were referred the following bills, reported adversely thereon, and moved that they be indefinitely postponed, which was agreed to:

H. R. 2009. An act for the relief of James M. Pierce; and

H. R. 3192. An act for the relief of John Costigan (Rept. No. 748).

Mr. TYSON also, from the Committee on Military Affairs, to which was referred the bill (H. R. 6431) for the relief of Lewis H. Easterly, reported it without amendment and submitted a report (No. 749) thereon.

Mr. FLETCHER, from the Committee on Military Affairs, to which was referred the bill (H. R. 7228) for the relief of Frederick Leininger, reported adversely thereon and moved that the bill be indefinitely postponed, which was agreed to.

Mr. GEORGE, from the Committee on Military Affairs, to which was referred the bill (H. R. 2294) for the relief of George H. Gilbert, reported it without amendment and submitted a report (No. 751) thereon.

He also, from the same committee, to which was referred the bill (S. 3269) providing for the advancement on the retired list of the Army of Hunter Liggett and Robert L. Bullard, major generals, United States Army, retired, reported it with amendments and submitted a report (No. 752) thereon.

Mr. GEORGE also, from the Committee on Military Affairs, to which were referred the following bills, reported adversely thereon and moved that they be indefinitely postponed, which was agreed to:

S. 3270. An act for the relief of Chester A. Boswell; and

H. R. 4655. An act for the relief of David E. Goodwin.

Mr. KENDRICK, from the Committee on Public Lands and Surveys, to which were referred the following bills, reported them each without amendment and submitted reports thereon:

H. R. 475. An act to permit taxation of lands of homestead and desert-land entrymen under the reclamation act (Rept. No. 753); and

H. R. 852. An act authorizing the issuance of a certain patent (Rept. No. 754).

Mr. COPELAND, from the Committee on the District of Columbia, to which was referred the bill (S. 3936) to regulate the practice of the healing art to protect the public health in the District of Columbia, reported it with amendments and submitted a report (No. 755) thereon.

VIEWS OF MINORITY ON BOULDER DAM BILL (REPT. NO. 592, PT. 2)

Mr. ASHURST. Mr. President, I present the views of the minority on Senate bill 728, which is known as the Boulder Dam bill. I ask that these views may be printed and that the calendar indicate that the minority views have been presented.

The VICE PRESIDENT. Without objection, it is so ordered.

ENROLLED BILLS PRESENTED

Mr. GREENE, from the Committee on Enrolled Bills, reported that on April 6, 1928, that committee presented to the President of the United States the following enrolled bills:

S. 1498. An act to extend the time for the construction of a bridge across the Chesapeake Bay, and to fix the location of said bridge; and

S. 2549. An act providing for payment to the German Government of $461.59 in behalf of the heirs or representatives of the German nationals, John Adolf, Herman Pegel, Franz Lipfert, Albert Wittenburg, Karl Behr, and Hans Dechantsreiter.

ROAD FROM ST. ELMO, TENN., TO ROSSVILLE, GA.

Mr. TYSON. Mr. President, from the Committee on Military Affairs, I report back favorably, without amendment, the bill (H. R. 5817) to provide for the paving of the Government road extending from St. Elmo, Tenn., to Rossville, Ga., and I submit a report (No. 723) thereon. I ask unanimous consent for its immediate consideration.

The VICE PRESIDENT. Is there objection to the immediate consideration of the bill?

Mr. JONES. Mr. President, I did not gather what the nature of the bill is.

Mr. TYSON. I will state to the Senator from Washington that the bill, which has been passed by the House of Representatives, proposes to appropriate $75,000 for the building of a military road, commencing at the foot of Lookout Mountain at St. Elmo, Tenn., to Rossville, Ga. The bill has been reported unanimously by the Committee on Military Affairs.

Mr. JONES. Is this road entirely within a Government reservation or park?

Mr. McKELLAR. The road belongs to the Government.

Mr. JONES. And is it a military road in a military reservation?

Mr. McKELLAR. Yes; it belongs to the Government absolutely. It connects the military reservation on Lookout Mountain with the military reservation at Fort Oglethorpe. The War Department and the Bureau of the Budget have both recommended it, and I believe it unanimously passed the House. The bill provides that after the road is built it is to be turned over to the county, and the Government does not have to maintain it any longer. Seventy-five thousand dollars will not be enough to build the road, but the county of Hamilton will probably furnish the money necessary to complete it. This bill has the approval of the War Department, and, indeed, is in accordance with its usual policy in such cases. I hope there will be no objection.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which was read, as follows:

Be it enacted, etc., That the sum of $75,000, or so much of said sum as may be necessary, is hereby authorized to be appropriated out of any money in the Treasury not otherwise appropriated, to be expended under the direction of the Secretary of War, in paving the Government road commencing at the pike at the foot of Lookout Mountain at St. Elmo, Tenn., and extending to the Rossville Boulevard, at Rossville, Ga., in the length of $3\frac{7}{10}$ miles, known as the Hooker Road: *Provided*, That no part of this appropriation shall be expended until the States of Georgia and Tennessee, or the counties or municipalities thereof concerned, have obligated themselves in writing to the satisfaction of the Secretary of War that they will accept title to and maintain said road under the provisions of the act approved March 3, 1925 (sec. 418, title 18, U. S. C.), immediately upon the completion of such improvements as may be made under this appropriation.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

BILLS AND JOINT RESOLUTION INTRODUCED

Bills and a joint resolution were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. BRATTON:

A bill (S. 3940) granting certain public lands to the State of New Mexico for the use and benefit of the Eastern New Mexico Normal School, and for other purposes; to the Committee on Public Lands and Surveys.

By Mr. REED of Pennsylvania:

A bill (S. 3941) for the relief of John Holly Wilkie; to the Committee on Claims.

By Mr. VANDENBERG:

A bill (S. 3942) for the relief of Maj. Charles F. Eddy; to the Committee on Claims.

By Mr. WALSH of Massachusetts:

A bill (S. 3943) granting an increase of pension to Ella P. Rollins; to the Committee on Pensions.

By Mr. BROOKHART:

A bill (S. 3945) to amend section 5 of the interstate commerce act, as amended; to the Committee on Interstate Commerce.

A bill (S. 3946) granting an increase of pension to Elizabeth Harding (with accompanying papers); to the Committee on Pensions.

By Mr. OVERMAN:

A bill (S. 3947) to provide for the times and places for holding court for the eastern district of North Carolina; to the Committee on the Judiciary.

By Mr. ASHURST:

A bill (S. 3948) for the relief of Herbert R. Cornforth; to the Committee on Claims.

By Mr. ODDIE:

A bill (S. 3949) to amend section 10 of an act entitled "An act to provide for stock-raising homesteads, and for other purposes, approved December 29, 1916 (Public, No. 290, 64th Cong.); to the Committee on Public Lands and Surveys.

A bill (S. 3950) for the relief of William S. Shacklette; and

A bill (S. 3951) for the relief of Paymaster Charles Robert O'Leary, United States Navy; to the Committee on Naval Affairs.

By Mr. THOMAS:

A bill (S. 3952) for the relief of Elisha H. Long; to the Committee on Military Affairs.

A bill (S. 3953) to extend the benefits of the employees' compensation act of September 7, 1916, to David E. Jones; to the Committee on Claims.

By Mr. RANSDELL:

A bill (S. 3954) to quiet title in the heirs of Norbert Boudousquie to certain lands in Louisiana; to the Committee on Public Lands and Surveys.

By Mr. McNARY:

A bill (S. 3955) to amend section 6 of the first deficiency act, fiscal year 1928; to the Committee on Appropriations.

A bill (S. 3956) granting a pension to Simpson Wilson; to the Committee on Pensions.

By Mr. NEELY:

A bill (S. 3957) granting a pension to Agnes M. Carr (with accompanying papers); to the Committee on Pensions.

By Mr. JONES (by request):

A bill (S. 3958) to bring about the reclamation of logged-off, swamp, overflow, and arid unproductive lands, aid veterans, develop the Mississippi, St. Lawrence, Colorado, Columbia, and other rivers and harbors and sections of the country; improve home markets, provide airports, cold-storage plants, and fertilizers more economically, improve the agricultural resources and marketing facilities of districts, provide for the disposal of public lands, and to pledge credit of the Government, to assist public corporations organized under State laws, and create a Federal reclamation and development board; to the Committee on Irrigation and Reclamation.

By Mr. SHORTRIDGE:

A bill (S. 3959) to amend section 8 of the food and drugs act, approved June 30, 1906, as amended; to the Committee on Agriculture and Forestry.

A bill (S. 3960) to amend sections 726 and 727 of title 18, United States Code, with reference to Federal probation officers, and to add a new section thereto; to the Committee on the Judiciary.

By Mr. HALE:

A bill (S. 3961) granting an increase of pension to Della W. Lampson (with accompanying papers); to the Committee on Pensions.

By Mr. McKELLAR:

A bill (S. 3962) granting an increase of pension to Essie M. Horton; to the Committee on Pensions.

A bill (S. 3963) for the relief of Mary Frances McConnell; to the Committee on Claims.

By Mr. GOULD:

A bill (S. 3964) granting a pension to Cassie E. Spencer (with accompanying papers); to the Committee on Pensions.

By Mr. COPELAND:

A bill (S. 3965) granting six months' pay to Marjory Virginia Watson; to the Committee on Military Affairs.

A bill (S. 3966) to prohibit the use of spray painting compressed-air machines in the Territories and possessions of the United States and the District of Columbia and in the performance of public contracts, and for other purposes; to the Committee on Education and Labor.

By Mr. ROBINSON of Indiana:

A bill (S. 3967) for the relief of Willie Sandlin; to the Committee on Military Affairs.

A bill (S. 3968) granting an increase of pension to Anna Heise (with accompanying papers);

A bill (S. 3969) granting an increase of pension to Sarah A. Murray (with accompanying papers); and

A bill (S. 3970) granting an increase of pension to Susan Robbins (with accompanying papers); to the Committee on Pensions.

By Mr. NEELY:

A bill (S. 3973) granting an increase of pension to Lavenia A. Drennen; to the Committee on Pensions.

By Mr. WATSON:

A bill (S. 3974) granting an increase of pension to Emma Reser; and

A bill (S. 3975) granting an increase of pension to Mary E. Spilker; to the Committee on Pensions.

By Mr. FESS:

A joint resolution (S. J. Res. 125) authorizing the President of the United States to accept a monumental urn to be presented by the Republic of Cuba and providing for its erection on an appropriate site on the public grounds in the city of Washington, D. C.; to the Committee on the Library.

MEDAL OF HONOR FOR CLARENCE D. CHAMBERLIN

Mr. BROOKHART. I introduce a bill authorizing the President, in the name of Congress, to present a medal of honor to Clarence D. Chamberlin, who conducted the first air flight with a passenger from the United States to Germany, an achievement second only to that of Lindbergh.

The bill (S. 3944) authorizing the President to present, in the name of Congress, a medal of honor to Clarence D. Chamberlin was read twice by its title and referred to the Committee on Military Affairs.

CORRUPT PRACTICES IN ELECTIONS

Mr. SHIPSTEAD introduced a bill (S. 3971) to extend the Federal corrupt practices act to primary elections of Senators and Representatives, which was read twice by its title, referred to the Committee on Privileges and Elections, and, on request of Mr. SHIPSTEAD, ordered to be printed in the RECORD, as follows:

Be it enacted, etc., That section 302 of Title III, Federal corrupt practices act, 1925 (43 Stat. 1070), defining the meaning of term "elections" in the provisions of said act, be amended to read as follows:

"SEC. 302. When used in this title—

"(a) The term 'election' includes a primary, general, or special election, and, in the case of a Resident Commissioner from the Philippine Islands, an election by the Philippine Legislature."

SEC. 2. This act shall be in force and effect from and after its passage.

Mr. SHIPSTEAD also introduced a bill (S. 3972) to prevent corrupt practices in the nomination and election of President and Vice President of the United States, which was read twice by its title, referred to the Committee on Privileges and Elections, and, on request of Mr. SHIPSTEAD, ordered to be printed in the RECORD as follows:

Be is enacted, etc., That whoever shall promise, offer, or give, or cause to be promised, offered, or given any money, office, job, or contract, or other thing of value to any person voting in the general election or voting as delegate in a national convention to vote or withhold his vote for or against any candidate for President or Vice President of the United States, or whoever solicits, accepts, or receives any money, office, job, contract, or other thing of value for his vote or for acting as delegate or alternate for such convention candidate for President or Vice President of the United States, shall be fined $1,000 or imprisoned for one year, or both, at the discretion of the court.

SEC. 2. That all candidates for nomination for President and Vice President of the United States shall file with the Secretary of the Senate an itemized list of campaign receipts, expenses, and disbursements 30 days before the national convention from which he seeks nomination and again the day before said convention meets; such filing to be made by the candidate in person or by his designated manager or committee or State or district committees.

SEC. 3. That all committees, organizations, individuals, or corporations conducting voluntary and unsolicited, or solicited, publicity, or other political work for the political advancement of any announced or unannounced candidate for nomination for President or Vice President, shall file with the Secretary of the Senate an itemized list of receipts, expenses, and disbursements, together with names of persons participating in such political work, such filing to be 30 days before and again the day before the national convention to which the name of such announced or unannounced candidate or candidates is to be presented.

On request of Mr. SHIPSTEAD, the bill (S. 3914) to prevent the use of Federal official patronage in elections and prohibit Federal officeholders from misuse of positions of public trust for private and partisan ends, introduced by him on April 4 (calendar day of April 5), 1928, and referred to the Committee on Privileges and Elections, was ordered to be printed in the RECORD, as follows:

Be it enacted, etc., That no person holding an appointive office of trust or profit under the Government of the United States shall be officer, committeeman, delegate, or alternate of any political convention, primary, caucus, or other organization, having for its aim the nomination or election of any candidate, avowed or unavowed, for President or Vice President of the United States.

SEC. 2. Violation of section 1 hereof shall be a felony punishable by a fine of $1,000 and by loss of his official position and shall bar him from holding any office, elective or appointive, under the Government of the United States for a period of five years.

AMENDMENT TO FARM RELIEF BILL

Mr. WATERMAN submitted an amendment intended to be proposed by him to Senate bill 3555, the farm relief bill, which was ordered to lie on the table and to be printed.

ACCEPTANCE OF STATUE OF ANDREW JACKSON

Mr. TYSON. On behalf of my colleague [Mr. MCKELLAR] and myself, I submit a resolution which I ask to have read.

The VICE PRESIDENT. The clerk will read the resolution.

The Chief Clerk read the resolution (S. Res. 192), as follows:

Resolved, That at 3 o'clock on April 16, 1928, exercises appropriate to the reception and acceptance from the State of Tennessee of the statue of Andrew Jackson, a former President of the United States, erected in Statuary Hall in the Capitol, be made the special order of the Senate.

Mr. TYSON. I ask unanimous consent for the present consideration of the resolution.

Mr. CURTIS. What is the hour and the day named?

Mr. MCKELLAR. Three o'clock on Monday.

Mr. TYSON. At 3 o'clock on Monday, April 16.

Mr. CURTIS. A week from to-day?

Mr. MCKELLAR. Yes; on Monday, April 16, at 3 o'clock.

The VICE PRESIDENT. Is there objection?

The resolution was considered by unanimous consent and agreed to.

Mr. TYSON. Mr. President, on behalf of my colleague [Mr. MCKELLAR] and myself, I also submit a concurrent resolution, which I ask may lie on the table.

The resolution (S. Con. Res. 14) was read and ordered to lie on the table, as follows:

Resolved by the Senate (the House of Representatives concurring), That the statue of Andrew Jackson, presented by the State of Tennessee to be placed in Statuary Hall, is accepted in the name of the United States, and that the thanks of Congress be tendered to the State of Tennessee for the contribution of the statue of one of the Nation's most eminent citizens, illustrious as a national hero and distinguished as a President of the United States.

Second. That a copy of these resolutions, suitably engrossed and duly authenticated, be transmitted to the Governor of the State of Tennessee.

FEDERAL OFFICES IN GEORGIA

Mr. GEORGE. On behalf of the senior Senator from Georgia [Mr. HARRIS] and myself I offer a resolution providing for an investigation into the barter of Federal offices in Georgia and the collection of money or other thing of value from those holding Federal office. I ask that the resolution may be referred to the Committee on Post Offices and Post Roads. The complaints reaching me relate to post offices and the appointment of postmasters rather than officers coming under the civil service. I have had no complaint with reference to the appointment of officers not in the Postal Service.

Mr. MCKELLAR. Mr. President, will the Senator yield to a question?

Mr. GEORGE. Certainly.

Mr. MCKELLAR. Does the resolution confine the investigation to such officers in Georgia or does it cover all the States?

Mr. GEORGE. It is confined to Georgia.

Mr. MCKELLAR. Does the Senator desire immediate consideration of the resolution?

Mr. GEORGE. I am not asking for immediate consideration of the resolution, because there are some matters which I wish to present to the Senate Committee on Post Offices and Post Roads in connection with the resolution.

Mr. MCKELLAR. I hope the Senator will not ask that the resolution be acted upon to-day, for I should like to offer an amendment to it.

Mr. GEORGE. I am asking that the resolution be referred to the Committee on Post Offices and Post Roads, for the reason stated and because I wish to make some suggestions to that committee.

The resolution (S. Res. 193) was read and referred to the Committee on Post Offices and Post Roads, as follows:

Resolved, That a special committee of three Senators to be appointed by the President of the Senate is authorized and directed (1) to make a full and complete investigation of the barter of Federal offices in the State of Georgia, and particularly the facts with respect to any payment of money or anything of value, or promise to pay money or anything of value, before, upon, or after the appointment, to party officials or organizations or their agents or representatives, for the purpose of influencing appointments to such offices, and (2) to report thereon to the Senate as soon as practicable, with such recommendations for necessary legislation as it deems advisable. For the purposes of this resolution such committee is authorized to hold hearings, to sit and act at such times and places, to employ such experts and clerical, stenographic, and other assistance, to require by subpœna or otherwise the attendance of such witnesses and the production of such books, papers, and documents, to administer such oaths, and to take such testimony, and make such expenditures, as it deems advisable. The cost of stenographic service to report such hearings shall not be in excess of 25 cents per hundred words. The expenses of such committee, which shall not exceed ——, shall be paid from the contingent fund of the Senate.

THE MERCHANT MARINE

Mr. JONES. Mr. President, I have an article from the Marine Journal relative to the work accomplished by the Shipping Board, written by John L. Bogert, which I ask may be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

BOGERT LOOKS AT THE CREDIT SIDE OF THE LEDGER FOR THE SHIPPING BOARD—ALL OF WHICH GOES TO SHOW THAT THE SHIPPING BOARD IS NOT ALWAYS THE VILLAIN OF THE PIECE AS MANY WOULD HAVE US BELIEVE, BUT HAS CONTRIBUTED SOME SOUND AND HIGHLY PRACTICAL AID TO THE PROBLEM OF PLACING THE AMERICAN FLAG ON THE SEAS

By John L. Bogert

One hundred and sixty-three shipping lines handle the foreign trade of the United States, and of that number 26 lines belong to the United States Shipping Board and are served by 300 ships in actual commission and 500 ships laid up but available for immediate use in emergencies. These 300 ships are all that are left of the 2,500 vessels inherited from the World War. Owing to the stupidity of our maritime policy, they cost us up to and above $225 per deadweight ton and are worth to-day scarcely $10 per deadweight ton. Tangible property, that cost us $3,500,000,000 10 years ago has shrunk 95 per cent. O triumphant democracy—when it comes to matters relating to the sea and foreign commerce, thy name is jackass!

THE SCAPEGOAT

And who has been made the scapegoat—and over whose head does the shifty opportunist, acting the rôle of political high priest, confess the maritime sins of the people and aim to send away into the wilderness of discredit forgetfulness? The United States Shipping Board.

When the Shipping Board spends money building up trade routes that have never before seen a single steamship flying the American flag, they are dubbed wastrels, and when they attempt to save for the Nation all they possibly can in disposing of the junk left on their hands, they are accused of trying to perpetuate Government operation of ships. As a matter of fact—and to give the devil his dues—the Shipping Board has cost the American people nothing. For every dollar of deficit their operation in foreign service has shown, they have saved the American exporter and importer $2 and possibly $3 and in some cases $4.

How do we get that saving stuff? Right here:

SOME ENLIGHTENING FIGURES

Last year the foreign trade of the United States was as follows:

Exports	$4,864,805,773
Imports	4,184,398,182
Total	9,049,203,955

Many years ago Mulhall, the great British statistician, stated that the average of all ocean freights bore a nearly fixed ratio to the actual value of the cargoes themselves. Now while Mulhall's figures and percentages are only of historic interest to-day—since the cost of transportation on the sea as well as on land tends constantly to sink—there is no great error involved in the assumption that ocean freights will average about 8 per cent of the value of the cargoes. In other words, our foreign commerce probably paid last year a freight bill of about $720,000,000.

THE FREIGHT-RATE PRINCIPLE

It is a well-known fact that the principle upon which freight rates are fixed is all the traffic will bear. Even in the early days when our sailing ships were supreme, it was nothing unusual for a ship to clear her entire first cost in one voyage, and American exporters and importers can hark back to the early days of the World War, when we had not yet entered "to make the elections safe for Democrats"—that ocean freight rates were high enough to justify enormous prices for superannuated tonnage of all kinds. So on more than one occasion in our history foreign freight rates have gone kiting.

A STABILIZING FACTOR

Since the war the United States Shipping Board has been the great steadying factor in the matter of foreign freight rates, performing on the seas the same service rendered by the Interstate Commerce Commission on land.

Five times within a few years foreign steamship owners have been compelled to revise their freight rates on important commodities downward, and in several instances the downward revision was drastic.

In 1924 we imported Egyptian cotton to the value of $22,954,000. What happened in this case is a conspicuous example. Again, when we sent $50,000,000 worth of food and supplies to the starving Russians the foreign steamship owners were prevented from getting a generous rake-off by the United States Shipping Board. Precisely the same thing occurred when our miners were on strike and Welsh coal had to be brought from Great Britain. With the situation reversed and British customers unable to use British coal because of closed mines, the Shipping Board ships saved many a dollar for our coal exporters. Recently we have been reading in the newspapers how the Shipping Board has again compelled the foreign shipowner to moderate his demands in the case of Indian jute.

WHAT WOULD HAPPEN?

These five separate and distinct instances are pretty good proof that should the Shipping Board and its ships be eliminated from participation in ocean carrying, our ocean freight rates would be at least 10 per cent greater than they now rule. In this connection it is well to bear in mind that it has been nothing unusual in the past for shipping conferences to raise or lower rates 20 per cent. Even 10 per cent of $720,000,000—our foreign commerce freight bill for last year—is $72,000,000! And so, in preventing the foreign shipowner from raising freight rates on American goods, whether for export or import, by the small amount of 10 per cent, the Shipping Board last year saved the American people $72,000,000.

This comfortable amount—$72,000,000—on the credit side of the ledger looks pretty good to the taxpayer as an off-set to the $18,000,000 spent by the Government in maintaining essential trade routes that have not yet grown sufficiently profitable to induce private American capital to take them over.

PROTECTING FREIGHT RATES

Remember there is as yet no international commerce commission to fix ocean freight rates, and the United States Shipping Board is the only body with the power and the "guts" to see that our foreign trade is not unduly preyed upon by the foreign shipowner, who is patriotically interested in helping his nationals in competition with America for foreign markets.

Under the fostering care and ministering services of the Shipping Board our foreign trade has grown in a very few years in value from $6,000,000,000 to $9,000,000,000. Moreover, American ship operators are bound to turn into American shipowners as our trade routes become more and more stabilized.

Two-thirds of all the original Shipping Board ships already sold—and among them some of the very best ships we had—have been sold to private American owners way below the price that it would cost to replace them.

Wherein has the Shipping Board failed to offer every practical inducement for private ownership and operation?

In the last analysis, the whole question is up to Congress. Without some kind of Government assistance—and this may take multivarious forms—no sane banker will lend a nickel to a shipowner proposing to face the competition offered by the foreigner in overseas trade. American ship operators are training a body of young Americans for the white-collar jobs of the shipping business, and American engine room, fireroom, and deck crews are being kept at sea instead of on land.

Surely the United States Shipping Board deserves some words of appreciation for the way in which they have handled an exceedingly difficult situation. It is open to question whether any of us could have done any better loaded down with a lot of war-time-built ships—ships that were built in some instances with the help of puny clerks, insurance salesmen, second-story dips, pugilists, baseball players, and even rabbis.

In another article I may possibly be able to point out why a 0.78 or 0.80 block coefficient ship is not a desirable piece of floating equipment to run on routes where the skipper is shouting for 13-knot ships.

LIVING CONFEDERATE PRINCIPLES

Mr. BLEASE. Mr. President, 63 years ago to-day, two generals met at the courthouse in Appomattox, Va., and exchanged greetings. I ask to have printed in the RECORD a copy of a speech delivered by Hon. Lloyd T. Everett at the Confederate veterans' reunion in this city on February 10, 1914.

The VICE PRESIDENT. Without objection, it is so ordered.

The speech is as follows:

LIVING CONFEDERATE PRINCIPLES—A HERITAGE FOR ALL TIME

(An address delivered by Lloyd T. Everett, of Washington Camp, No. 305, Sons of Confederate Veterans, at the reception by the camp to the Confederate veterans of Washington, D. C., and vicinity, February 10, 1914. Revised. Copyright, 1915, by Lloyd T. Everett.)

"'DUTY' IS THE SUBLIMEST WORD IN THE ENGLISH LANGUAGE"

Mr. Commandant, Mr. Toastmaster, veterans, and comrades, we often hear it said that the glory of the Confederate soldier is imperishable and immortal; that his valor and devotion to duty have won for him a name and a fame that shall never die.

That is true. History shows us no equal to the splendid blend of physical and moral courage and long-sustained fortitude of the half-starved legions of Lee—certainly no superior. And while, to use a homely phrase, every tub must stand upon its own bottom, while each man must win for himself by his own worth his standing in the community, yet I prize as a priceless treasure the proud fact that I am the son of a Confederate soldier. Nor is this merely a matter of pride or of accidental honor to me. It is a very real incentive to look well to my own course and conduct in order that I may hand on untarnished the shining legacy that was bequeathed to me.

"'Duty' is the sublimest word in the English language" is a maxim that has been widely credited to our peerless Lee, although incorrectly so according to respectable authority. But in any event the sentiment is well worthy of General Lee, whose own life, public and private, was a superb illustration of the truth of the sublime epigram. And so unswerving and unfaltering devotion to duty is the glorious heritage which we Sons of Confederate Veterans, as sons of Confederate veterans, have acquired by reason of our lineage.

But it is not of the courage, valor, and endurance of the Confederate soldier that I wish particularly to speak on this occasion. Those cardinal virtues of Dixie's defenders have been extolled a thousand times over by tongues more fluent than mine. Nor is it my purpose to vindicate the course of the peoples of the Southern States in asserting and striving at all costs to maintain their independence under the exigencies of the particular crisis of 1860–61. The world is already coming to know, as we have always known, that we need no such vindication; that our open record is its own vindication.

No; it is another phase of what we may call the Confederate subject which I wish here to discuss, a phase which, it seems to me, has been too little featured and, I fear, too little recognized, even by our own chroniclers and advocates. And yet to my mind upon the general recognition of it depends the true progress of our own people, nay, of free government, and hence of civilization itself. And that phase or aspect of the general subject is this: The absolute soundness of the principles upon which the Southern Confederacy was bottomed; not merely the rightfulness of our stand for political independence under the peculiar circumstances of that time but the everlasting verity of the political and institutional ideals underlying our action; ideals vital and essential to all ages and climes as a goal toward which to press if the world is to have true liberty with progress.

For our Confederate war—our second war for independence Stonewall Jackson called it—was not a mere abortive revolution. We of the Southern States stood for great and fundamental principles of government, principles that meant and that still mean much for the advancement of free institutions and of human happiness.

And just as the valor of the Confederate soldier and the untold heroism of the Confederate woman are immortal, so with this larger view of the subject in mind I take a theme for consideration here and name it "Living Confederate principles—A heritage for all time."

AN ERA OF GOOD FEELING

The present is a time of peace and good will, of broad and tolerant sentiment, of generous breadth of view; in a word, it is an era of good feeling between the various sections of these United States.

Just now there is rolling past us the semicentenary of the war for southern independence—the Civil War—the War between the States or the sections—the War of the Rebellion (whether by the North or the South we need not here inquire)—call it what one will, everyone knows to what we here refer; that mighty clash of arms which to many of us is still most commonly referred to as, simply, the war. On every hand, to judge from the newspapers, are daily evidences of amity and cordiality between the gray and the blue; of honor accorded brave men by brave men. And in July, 1913, at Gettysburg, there was formally and finally buried—let us see, was it the twenty-seventh time, or the hundred and twenty-seventh time since the war with Spain?—"the last vestige of sectionalism." And when I see and hear all this, I am glad. For then I may claim the right to a respectful hearing on my chosen theme, even though certain views I hold regarding the war, its causes, its conduct, and its consequences may differ widely from those prevalent in the North, and even from those sometimes found in the South.

Nor is this era of good feeling confined to America. Just now a son of Virginia and of a Confederate veteran sits in the White House, and a grandson of Virginia is the premier of the Cabinet. From these two men of southern stock now at the helm of the ship of state has gone forth to all the world the message from this mighty Nation, Peace on earth, good will to men; not good will to men on earth from God in heaven, as on that Christmas morn 19 centuries ago, but peace on earth from men to men—in truth, a clarion call from a strong nation to the other nations of the earth, strong and weak alike; a call to these other nations to recognize as never before the brotherhood of man under the fatherhood of God, as it is sometimes expressed. Under the Bryan peace plan, if adopted, a long step forward will have been taken toward that happy era when "they shall beat their swords into plowshares, and their spears into pruning hooks; nation shall not lift up sword against nation, neither shall they learn war any more."

This means a turning from the forum of force to the rule of reason; a substitution of calm argument or impartial arbitration for the dread arbitrament of war. Yea, veterans and descendants of the gray, it means a turning from the principles and practices of Lincoln and the North; it means the coming triumph of the underlying principles of the Confederate States of America.

THE CONFEDERACY'S PEACEABLE APPEAL

I know that it is often said that the Southern States appealed to the sword in their controversy with the Northern States. I am here to challenge that allegation, to absolutely deny its truth. And I can prove my contention from the record, and prove it to the verge of demonstration. That record shows that the South did not choose the arbitrament of the sword; it does show that she resorted to secession as the last hope of peace with honor.

Ours is preeminently a race of peace and progress through the channels of self-government. The history of our ancestors for a thousand years and more will sustain the truth of this claim. True, it is a history of internecine war, often, but largely so because it is the life story of men, and of many generations of men, who prized peace and order so highly that they were ever ready, if need be, to fight for it. Magna Charta, the Bill of Rights, the Petition of Right, the Revolution of 1688, the act of settlement—these are some of the monuments that mark the achievements of this orderly yet militant race. And these men laid the cornerstone of their structure in local self-government as the truest safeguard for an oppressed minority, and thus surest bulwark for political liberty itself. Yes; local self-government, or home rule, is of the very warp and woof of our institutions.

These salutary political principles, these racial characteristics were transplanted also to the kindly soil of the New World when a greater Britain was planted here.

It was in support of these principles that our Revolutionary sires protested against the unconstitutional stamp acts and similar taxation measures of England oppressive of the American minority, in the efforts of the mother country to recuperate for the expenses of the French and Indian War. At first they sought a peaceable remedy in the form of remonstrances, resolutions, and the like. When they found that these availed them not they then reluctantly accepted the gauge of battle flung in their faces by their haughty oppressors across the seas. Even after actual war was raging, these American patriots of British stock still indulged the fatuous dream of an unbroken British union and sought to wage their fight under the British Crown and as nearly as possible under the British flag. As he himself afterward declared, George Washington, when he took command of the rebel forces under authority from the Continental Congress, "abhorred the idea of independence."

THE CONSENT OF THE GOVERNED

But the logic of events soon brought forth the instrument officially entitled "The unanimous Declaration of the thirteen united States of America." (And, by the way, Declaration is written with a big D, united States with a little u and a capital S.) This immortal declaration laid down the fundamental doctrine that—

"Governments are instituted among men, deriving their just powers from the consent of the governed; that, whenever any form of government becomes destructive of these ends, it is the right of the people to alter or to abolish it and to institute a new government, laying its foundation on such principles and organizing its powers in such form as to them shall seem most likely to effect their safety and happiness."

This, our first war for independence, was successful. About the close of it these 13 independent republics formed a closer union among themselves, under what was known as the Articles of Confederation. This becoming unsatisfactory after a very few years, most of the constituent States seceded (which at the time was denounced by a few as unconstitutional and a breach of faith), and these seceding States, 11 in number, formed a new union under the Federal Constitution that was framed in 1787 and went into operation between these 11 States March 4, 1789. Afterwards the two remaining States of the old union—North Carolina and Rhode Island—also acceded to the new instrument.

As is well known, this new union was regarded with great jealousy and scrutinized very closely by a number of the continental fathers, the immortal Patrick Henry, the firebrand of the Revolution, and George Mason, author of the great Bill of Rights of Virginia, among the number. As just seen, political independence from the despotic central power of Britain had been gained by the assertion and maintenance of

the right to change oppressive governments. But this struggle was won by force of arms and at the cost of much bloodshed; and the principle of the right to alter oppressive governments thus asserted in the Declaration of Independence might be construed, it was feared, to mean merely the right of revolution, and so the people of some of the United States, if thereafter oppressed by the central government to be created under the new Constitution might be left the right of separation, in self-defense, only by force of arms. And thus we would have progressed no whither in our supposed upward and onward march in the path of just and orderly self-government. Wherefore several of the States—Virginia, New York, and Rhode Island—in acceding to the new Constitution expressly reserved the right to peaceably withdraw or secede should they thereafter find it necessary to their happiness to do so.

MINORITY PROTECTION

This was an important advance in self-government and a further safeguard for the minority. The protection of the minority, be it remembered, was a primary object in the framing of the Federal Constitution, as stated at the time by James Madison, who is called the Father of the Constitution.

In the Virginian convention that ratified the Constitution of the United States, Delegate James Madison declared:

"But, on a candid examination of history, we shall find that turbulence, violence, and abuse of power by the majority trampling on the rights of the minority, have produced factions and commotions which, in republics, have more frequently than any other cause produced despotism. * * * If we consider the peculiar situation of the United States, and what are the sources of that diversity of sentiment which pervades its [sic] inhabitants, we shall find great danger to fear that the same causes may terminate here in the same fatal effects which they produced in those republics. This danger ought to be wisely guarded against."

Madison advocated the adoption of the Constitution as affording the needed protection to the minority.

COERCION VOTED DOWN IN THE CONSTITUTIONAL CONVENTION

Remember that: The Constitution of the United States was framed and adopted, the union of the States thereunder was formed, for the peaceable protection of the minority against the oppressions of the majority. And mark this: It was proposed by some to embody in the Constitution a power to coerce States that might refuse to obey the laws of Congress. Madison (still the father of the Constitution) said this would mean war; and the proposal was voted down.

Well, time went on. Sectional differences and jealousies speedily developed between the Southern and the Northern States. Under Jefferson, a southern President, the great trans-Mississippi Territory of Louisiana was bought from Napoleon, in 1803; and thereby the area of the United States was approximately doubled. New England thought that this would strengthen the South at the expense of the North. Accordingly, New England threatened secession.

New England was at this time a commercial or seafaring country, and had as yet few manufactures. The embargo law of Jefferson's second administration was unpopular in this sea-trading New England, and again loud mutterings of secessionist purposes were heard up there. The State of Louisiana was admitted in 1812, despite the celebrated threat of Josiah Quincy, of Massachusetts, on the floor of Congress in 1811, that such admission of a new Southern State from a part of the Louisiana Purchase would constitute adequate cause for secession by some of the Northern States, "amicably if they can, violently if they must."

But conditions soon changed. The War of 1812 cut us off from Europe, whence we had theretofore obtained most of our manufactured goods; and New England, her sea trade interrupted by the war, with commendable energy and enterprise now began to manufacture. During this war the famous Hartford Convention, of New England, met with a large-sized list toward secession. After the war New England and the North generally began to find the Union a good thing for them; it furnished a free market—the Southern States—for buying the manufacturers' raw materials; it furnished a "protected" market—still largely the Southern States—for selling the manufactured goods.

A FIRE BELL IN THE NIGHT

But New England and the rest of the North were still painfully jealous of new Southern and Western or Southwestern States. They opposed the admission of Missouri, 1819, and now first raised seriously the question of negro slavery as a sectional issue. Thomas Jefferson was himself, like many other Southerners, in favor of the abolition of slavery; a peaceable abolition. But he could see further into the future than could most men. So now, when this Missouri-slavery issue was raised by New England and the North, for the purpose of keeping the new lands of the West for themselves as against the South, the aged Jefferson wrote that it roused him as a fire bell in the night, and portended a disastrous sectional struggle.

But to return to the tariff. The tariff question, as a serious sectional issue, first came to a head about 1830. Having once gotten hold of the nursing bottle of "protection," so called, in 1816 and 1820, New England and the North cried ever for more. The tariff of 1820 was followed by that of 1824, and that in turn by the "tariff of abominations" in 1828. These were sectional measures, and the South felt herself being oppressed and impoverished by the combined northern and northwestern majority. The tariff act of 1832 was of the same stripe as its predecessors. Out of this situation came the nullification crisis of 1830–1833.

Early in 1830 occurred the memorable debate in the Senate of the United States between Robert Y. Hayne, of South Carolina, and Daniel Webster, of Massachusetts. Just three years later, early in 1833, a similar debate took place between the same Mr. Webster on one side and, on the other side, Hayne's successor in the Senate, the immortal John C. Calhoun. Hayne and Calhoun were the champions of the South in the pending sectional controversy; Webster, of the North. In these debates Webster is said to have "shotted every gun" that was fired for the North in the great war of 30 years later. If this be so, careful attention is due to this Titans' war, this battle of the forensic giants, and to the great constitutional and institutional arguments then advanced.

The immediate issue was the tariff. The Southern States, and especially South Carolina, contended that the existing tariff laws were devised for protecting Northern manufacturers, and so imposed a sectional burden upon the agricultural South; they contended, further, that there was no warrant for anything more than a revenue tariff; that a tariff for "protection," as it is called, was utterly unconstitutional.

Whether the South was correct on these two points, viz, the injurious effects of a "protective" tariff at that time, upon the South, and the unconstitutionality of such a tariff—with these two questions we are not here concerned. But from this starting point the debates ranged out and covered other two questions which do here concern us. And these are, first, How are disputed questions of constitutionality, arising between States or groups of States in the Union, to be determined? Second, the nature of the union, whether a union of States as States, or of the American people in one aggregate mass. To take these up briefly, in inverse order to that just given:

Calhoun introduced in the Senate a series of resolutions, three in number, which are well worth the careful study of every student of republican institutions, every lover of human freedom. These resolutions recited the strictly Federal character, under the Constitution of 1787–1789, of the Union of American States; with the resultant right, to the States, "of judging, in the last resort, as to the extent of the powers delegated" to the central Government and, consequently, of those reserved to the several States, and that action by the central Government based upon the contrary assumption must inevitably tend to undue consolidation and to "the loss of liberty itself."

"WE THE PEOPLE"

Webster vehemently attacked these resolutions. His argument may be thus epitomized, largely in his own words: How can any man get over the words of the preamble to the Constitution itself, "We the people of the United States * * * do ordain and establish this Constitution"; that these words forbid the turning of the instrument into a mere compact between sovereign States; that, in framing and putting into operation the Constitution of the United States, "a change had been made from a confederacy of States to a different system, * * * a Constitution for a National Government"; that "accession, as a word applied to political associations, implies coming into a league, treaty, or confederacy, by one hitherto a stranger to it"; that, "in establishing the present Government" (i. e., the Government of the United States as it stood in Webster's time) the "people of the United States * * * do not say that they accede to a league, but they declare that they ordain and establish a Constitution, * * * some of them employing the * * * words 'assented to' and 'adopted,' but all of them 'ratifying'"; that "the Constitution of the United States is not a league, confederacy, or compact between the people of the several States in their sovereign capacities"; that "the natural converse of accession is secession."

Note the several test words here: Confederacy, constitution, national, compact, and accede.

As to every one of them Webster was wrong, as may be shown from the debates and official documents accompanying and preceding the framing and adoption of the Federal Constitution. We have not the time to examine fully into all these test words here. To one or two of these words let us devote a few sentences.

First, then, as to the phrase, "We the people of the United States." The preamble to the Federal Constitution does use this expression. But Article VII of the instrument itself provides that "The ratification of the conventions of nine States shall be sufficient for the establishment of this Constitution between the States so ratifying the same." Mark you these most significant words, "between the States." It is not provided that the ratification of this Constitution by a prescribed majority of the whole people of the then existing United States under the Articles of Confederation shall establish it over the whole people of all those United States (a provision that would have been an utter nullity, for stubborn historical reasons), but that its ratification by a certain number of the States shall establish it between—not over, but

between those particular States, and none others, unless and until such others shall also ratify, each for itself.

Bearing in mind this Article VII of the Federal Constitution, the preamble becomes plain. A cardinal canon of construction is, that if possible all the parts of a written instrument shall be so construed as to be harmonious with each other. The "people of the United States," then, here means the people—or peoples—of those several distinct States which may elect to establish the proposed constitution between themselves. And, indeed, this Constitution of 1787, and the Union under it, first went into effect between 11 of the States only, as we have remarked above; North Carolina and Rhode Island remaining separate and independent Republics until, after President Washington's inauguration, they chose, each for itself, to come into the new Union or Confederacy.

So we see that Mr. Webster's centralist construction of the word or phrase, "the people," as used in the Constitution, falls to the ground.

But again Webster denies that the States acceded to the Constitution; and mark well his daring and all-important admission that "the natural converse of accession is secession."

Now, it so happens that this word accede, or its derivative accession, which he thus spurns, is found in the very sense which he denies to it over and over again in the debates of those who framed and adopted the Constitution; and at least once in the course of the official documents pertaining to its adoption; over and over again I say, or some forty times by actual count, either certainly or probably in this sense and more than twenty times unquestionably so. To give but three instances here:

James Madison said, in the Virginian convention of 1788 that debated and, by a close majority, ratified the system for Virginia: "Suppose eight States only should ratify and Virginia should propose certain alterations as the previous condition of her accession." In the North Carolina State convention Governor Johnston said: "We are not to form a constitution, but to say whether we—i. e., the people of North Carolina—shall adopt a constitution to which 10 States have already acceded." And the ratifying convention of New York—of which Alexander Hamilton was a member—prepared by unanimous order a circular letter containing this language: "Our attachment to our sister States and the confidence we repose in them can not be more forcibly demonstrated than by acceding to a government which many of us think very imperfect."

Webster was right; "secession is the converse of accession." Moreover, as we have seen above, at least three States—Virginia, Rhode Island, and New York—in their formal acts of ratification of the Federal Constitution expressly and explicitly reserved this right of secession or peaceable withdrawal; a fact now well known and now generally acknowledged by South and North alike.

But another question asked in those debates of the early thirties was, as stated above, How shall disputed questions of constitutional rights and powers to be decided? By the Federal Supreme Court, said Webster, so as to bind even sovereign States, and in all cases.

"No," said South Carolina, in substance, speaking through Hayne and Calhoun, "the Constitution of the United States empowers the Federal Supreme Court to decide only 'all cases in law and equity arising under this Constitution, the laws of the United States, and treaties made * * * under their authority.'" That is the language of the Constitution: "all cases in law and equity." And questions of sovereignty, argued South Carolina, come not within the scope of cases in law and equity, which are limited, by the well-known common-law use of the term, to an altogether different class of cases. The historical correctness of this contention of South Carolina's is supported by James Madison in his journal of the Constitutional Convention. Madison, the reporter, says of himself, the delegate:

"ALL CASES IN LAW AND EQUITY"

"James Madison doubted whether it was not going too far to extend the jurisdiction of the Federal Supreme Court generally to cases arising under the Constitution, and whether it ought not to be limited to cases of a judiciary nature." (The contention of Hayne and Calhoun exactly.) "The right of expounding the Constitution in cases not of this nature ought not to be given to that department.

"The [pending] motion of Doctor Johnson was agreed to nem. con., it being generally supposed that the jurisdiction given was constructively limited to cases of a judiciary nature." As if to clinch the matter beyond a peradventure, the words "in law and equity" were afterward inserted into the jurisdiction clause here discussed.

(Just a word here as to the man here quoted as authority, James Madison, of Virginia, "father of the Constitution." From the standpoint of a constitutional constructionist, Madison's career was somewhat that of a pendulum. Rather centralistic at the time of the general convention of 1787 that framed the Constitution and submitted it to the States for ratification or rejection—certainly moderately so, as disclosed by his own utterances from time to time in the debates of that convention, a very few years later he became Jefferson's own right-hand man in opposing the radically centralistic trend of the Adams administration; in his old age, and at the time of the nullification crisis which we are now discussing, he seems to have reverted toward his earlier position. As a centralist, then, at the time he took part in and reported the debates of the General Constitutional Convention of 1787, whatever Madison noted down of a contrary tendency is deserving of special attention and weight.)

But if not the Federal Supreme Court, then what tribunal, inquired Webster and the North, is to decide these disputed questions of sovereignty and of constitutional powers? The answer was ready to hand: Not to the Federal Supreme Court, itself but a component part of the created central government, where three men (a majority of a quorum of the court), and they political appointees, may have the deciding voice, must a sovereign creator State submit questions affecting her sovereign powers. She herself will decide it pending an appeal, in the true spirit of Magna Charta, to the judgment of her peers, her sister sovereign creator States in general convention assembled. This contention had had the support of Thomas Jefferson in 1821, as quoted by Hayne: "It is a fatal heresy to suppose that either our State governments are superior to the Federal or the Federal to the State; neither is authorized literally to decide what belongs to itself, or its copartner in government, in differences between their different sets of public servants; the appeal is to neither, but to their employers peaceably assembled by their representatives in convention." More than 20 years before this utterance Jefferson had embodied this same principle in his draft of the famous Kentucky resolutions. Again, Jefferson wrote: "This peaceable and legitimate resource, a general convention of the States, to which we are in the habit of implicit obedience, superseding all appeal to force, and being always within our reach, shows a precious principle of self-preservation in our composition. * * *"

Mark this: Jefferson says that in this plan of a general convention of the States to decide such mooted questions of constitutional construction and governmental powers is found a peaceable settlement of vexing political and sectional problems. This was precisely Carolina's plea in 1830–1833.

Right or wrong, thundered President Jackson, these Federal laws must be obeyed unless and until repealed by the same power—Congress—that enacted them, or unless and until declared unconstitutional by the Federal Supreme Court; and if not voluntarily obeyed, then obedience shall be enforced by the fratricidal sword. To like effect argued Webster. You have the right, said he, to resist laws deemed oppressive, if you so please—but it is the right of revolution, no more; justifiable only if successful, and if not successful, subject to the dread penalties of high treason.

POWER VERSUS LIBERTY

Ours is a constitutional remedy, Hayne replied, and a peaceable one. (a) The right of revolution exists independently of the Constitution. That instrument expressly declares that all powers not delegated to the central government remain to the several States, or the people; that is, to the people of those several States. This power of deciding the constitutionality or the unconstitutionality of laws of Congress, being not given in the Constitution either to Congress or to the Federal Supreme Court, remains to the several States. Ours is a peaceable remedy—unless you of the North force on us the issue of war. And only if honor with peace within the Union be found no longer possible, then will we exercise that other peaceable remedy of secession or withdrawal from the partnership of States in order that, like Abraham and Lot of old, we may dwell apart in peace, rather than remain together in dissension. And if you, like George III, still pursue us with hostile intent and the sword be drawn, then upon you of the North, not upon us, must the awful responsibility rest.

For answer to this plea of peace by South Carolina, Jackson, Webster, and the North passed the Force Bill, as it was called, of 1833; a bill providing for the enforcement of the tariff laws, if need be, by force of arms. But at the same time, in view of South Carolina's determined front, and signs of growing support for her from other Southern States, Jackson and Congress passed also the Clay compromise bill scaling down the tariff to meet Carolina's demands.

So ended the matter for the time. The sword was threatened but not drawn, and South Carolina's peaceable remedy for an oppressed sectional minority prevailed. And mark this: State nullification or State veto, as here preached by Hayne and Calhoun and practiced by their native State, was a qualified nullification only, a fact too often entirely overlooked; an interposition of the State's sovereignty pending an appeal to a three-fourths decision of the Confederated States in general convention. It was, in effect, a Federal referendum (b). It was strictly conservative of true constitutional principles. For, let us repeat, a prime object of the Federal Constitution was the protection of the rights of the minority.

This struggle of the early thirties of the nineteenth century was, as Calhoun averred at the time, a contest between power, or the North, and liberty, or the South. Calhoun drew a close parallel between that contest and that other of 1776, with Northern unjust taxation of the South in 1833 bearing a marked analogy to the British unjust taxation of the American Colonies in 1776.

THE GREAT CONFOUNDER OF THE CONSTITUTION

That both of these contentions of South Carolina—i. e., qualified nullification, with secession in reserve—were sound, historically and

constitutionally sound, we have just seen. That the contrary contention of Webster was unsound, unconstitutional, and unhistorical, must necessarily follow. Daniel Webster has been called the "Expounder of the Constitution." I respectfully submit that great "Confounder of the Constitution" would be a more fitting title. His admirer and biographer, and a successor to him in the Federal Senate from Massachusetts, Hon. Henry Cabot Lodge, says of Webster's argument here, "The weak places in his armor were historical in their nature." Of Webster on a somewhat similar occasion the same writer says, "But the speech is strongly partisan and exhibits the disposition of an advocate to fit the Constitution to his particular case." Likewise, Webster's apologist, Von Holst, discussing this very debate with Calhoun, sadly confesses that "to his and his country's harm, the advocate in him always spoke loudly in the reasoning of the statesman."

Yes; Daniel Webster was a great lawyer, an able advocate, a magnificent orator. But as a constitutional student he was superficial. The close of his speech known as "Webster's Reply to Hayne" is a burst of splendid oratory and is known and quoted far and wide. Only less eloquent, far more sound, is the little-known peroration to Hayne's rejoinder, which should be called "Hayne's Reply to Webster." Mr. Webster said:

A MEANS INSEPARABLE FROM THE END SOUGHT?

"While the Union lasts we have high, exciting, gratifying prospects spread out before us, for us and our children. Beyond that I seek not to penetrate the veil. God grant that, in my day at least, that curtain may not rise. God grant that on my vision never may be opened what lies behind. When my eyes shall be turned to behold for the last time the sun in heaven, may I not see him shining on the broken and dishonored fragments of a once glorious Union; on States dissevered, discordant, belligerent; on a land rent with civil feud, or drenched, it may be, in fraternal blood! Let their last feeble and lingering glance rather behold the gorgeous ensign of the Republic, now known and honored throughout the earth, still full high advanced, its arms and trophies streaming in their original luster, not a stripe erased or polluted, not a single star obscured—bearing for its motto no such miserable interrogatory as, What is all this worth? nor those other words of delusion and folly, Liberty first and union afterwards; but everywhere, spread all over in characters of living light, blazing on all its ample folds, as they float over the sea and over the land, and in every wind under the whole heavens, that other sentiment, dear to every true American heart—Liberty and union, now and forever, one and inseparable!"

Grand, glorious—rhetorically, but it is not logic—nor yet history. According to Webster, the perpetuity of the then existing American Union was essential to the continued enjoyment of liberty. But the Declaration of Independence, mindful of the rise and fall of nations and the ever-recurring changes in governments, tells us that all governments are but means to an end, and that end the securing of life, liberty, and the pursuit of happiness; that here, as in any other case, when a particular means fails to effect the end in view, it should be discarded for some other means. Forgetful, too, was Webster of Washington's language in his revered Farewell Address, wherein he denominates the Union under the Constitution of 1787–1789 an "experiment," and warns against "geographical discriminations" as "causes which may disturb our Union." To like effect to this last, as seen above, spoke Jefferson on "the Missouri question"; but these solemn admonitions of Washington and of Jefferson, Webster and, after him, Lincoln, heeded not.

Thus Mr. Webster in 1833, for union at any cost, when those whom he opposed themselves opposed the tariffs laws which, by means of "geographical discriminations," favored his own New England and the North. To far different effect had he spoken some 17 years before when, a Member of the House of Representatives from New Hampshire, he voiced New England's fierce opposition to the then raging war with old England and to the pending enlistment bill for carrying on that war: "I use not the tone of intimidation or menace," thundered young Representative Webster, "but I forewarn you of consequences. * * * I beseech you, by the best hopes of your country's prosperity—by your regard for the preservation of her Government and her Union—that you abandon your system of restrictions—that you abandon it at once and abandon it forever."

But to return to the great debate of 1830. Said General Hayne in reply to Webster's "reply":

FREEDOM BEFORE UNION

"The gentleman has made an eloquent appeal to our hearts in favor of union. Sir, I cordially respond to that appeal. I will yield to no gentleman here in sincere attachment to the Union; but it is a Union founded on the Constitution, and not such a union as that gentleman would give us that is dear to my heart. If this is to become one great 'consolidated government,' swallowing up the rights of the States, and the liberties of the citizen, 'riding over the plundered plowmen and beggared yeomanry,' the Union will not be worth preserving. Sir, it is because South Carolina loves the Union, and would preserve it forever, that she is opposing now, while there is hope, those usurpations of the Federal Government which, once established, will, sooner or later, tear this Union into fragments.

"The gentleman is for marching under a banner studded all over with stars and bearing the inscription, 'Liberty and Union.' I had thought, sir, the gentleman would have borne a standard, displaying in its ample folds a brilliant sun, extending its golden rays from the center to the extremities, in the brightness of whose beams the 'little stars hide their diminished heads.' Ours, sir, is the banner of the Constitution; the 24 stars are there in all their undiminished luster; on it is inscribed, 'Liberty—the Constitution—union.' We offer up our fervent prayers to the Father of all mercies that it may continue to wave for ages yet to come over a free, a happy, and a united people."

Hayne has been criticized as having violated a cardinal rule of oratory and having attempted to equal Webster's peroration in his own. But another view may be urged. The ablest generals—such as Lee, Jackson, and Napoleon—are often those who on occasions transgress fundamental canons of strategy, success as a result being their only justification. Hayne, at once orator, patriot, and logician, both felt the power of Webster's closing plea and its glowing imagery as it would appeal to men, and perceived its basic fallacy as applied. He proceeded, boldly and deliberately, to borrow his great antagonist's own figure of speech and turn it against him. In the brief space of the closing four sentences of the peroration just quoted, Hayne reproduces in outline the picture drawn so fully and so masterfully by Webster, dissects it, suggests a more fitting one to accord with his opponent's expressed principles, appropriates the original as properly illustrating his own position, and ends with the "fervent" and pertinent invocation that it may long be suffered to remain the true emblem of a people free and happy as well as united.

Hayne's peroration is not so elaborate or ornate as Webster's, nor was it meant to be. But it is perfect in itself. The keen, logical criticism, blended with the quiet, delicate sarcasm conveyed in the reference to the "brilliant sun" and the "little stars," is exquisite; the true application of Webster's stellar picture is simple and effective. After the "fire, the wind, and the earthquake" of Webster's mighty finish it comes as a still small voice.

And so the South triumphed with and through this remedy of peaceable protection for a sectional minority. The North, thus baffled, next resorted to a wily flank move.

A WILY FLANK MOVE

The next great sectional crisis (after the preliminary and premonitory one of 1850) came nearly a third of a century later. In the crisis just discussed, involving the nullification clash of 1830–1833, the tariff was the bone of contention. In this second crisis negro slavery in the Territories was the occasion, not the cause, as is imagined by many who should know better.

What was the actual source of this "free-soil" or "antislavery" crusade of the North? An aroused moral sense, say some. Fanaticism, say others. Partly each of these, but not exclusively or chiefly either or both, say I.

Mark well this fact: In the debates in Congress on the tariff dispute of 1833 John Quincy Adams, ex-President of the United States and then a Member of the House of Representatives, uttered this significant remark from the floor of the House: "But protection might be extended in different forms to different interests. * * * In the southern and southwestern portion of the Union there exists a certain interest [by which Adams meant negro slavery] which enjoys under the Constitution and the laws of the United States an especial protection, peculiar to itself" (i. e., return of fugitive slaves escaping from one State into another). He referred to the slaves in the Southern States as "machinery," and added, "If they [the Southern States] must withdraw protection from the free white labor of the North [the 'protection' of a high tariff, Adams meant], then it ought to be withdrawn from the machinery of the South."

Ah, here we have the milk in the coconut; or perhaps it would be appropriate to say the African in the fuel heap. In the framing of the Federal Constitution the North and the South—rather, New England and the far Southern States—arranged a quid pro quo, by which the shipping interests of New England obtained control, and permanent control, of commercial regulations by a mere majority vote, instead of a two-thirds vote, in the Congress, and the South, together with the slave-importing shippers of this same New England, defeated the possibility of prohibition of the continued importation of negroes temporarily or for some 19 years. And now, her darling of sectional customs "protection" in danger from South Carolina's firm stand, New England, through John Quincy Adams as her spokesman, gave warning in 1833 that tariff "protection," although not guaranteed by the Constitution, and slavery protection, which was expressly guaranteed by that instrument, must be held as twin special interests, to stand or fall together.

In this light, then, these remarks of Adams, of Massachusetts, should be carefully marked and constantly borne in mind in connection with the subsequent growth and course of antisouthern agitation, under the guise of an antislavery crusade, from the time—this time of South Carolina's nullification stand and the resultant tariff reduction of 1833—that a definite check was placed upon high tariff, North-favoring legislation. And this is the same Mr. Adams who shortly thereafter began to make his declining years renowned by pouring into the House

of Representatives at Washington his broadsides of "antislavery" or antisouthern petitions.

Finally a new party was formed, with its primary object, as professed, the exclusion of the South with her Constitution-guaranteed property from the common territories that had been acquired by the common blood and the common treasure of the South and the North. And, significantly, early in its history, or as soon (1860) as it had acquired material growth and substantial prestige, this new political party, already thus avowedly sectional in its principles, made a sectional "protective" tariff one of its demands. And when it had elected a President (by a sectional and a minority popular vote, be it remembered) and so caused a disruption of the Union of States, "protection" was a primary means employed to support the war that followed—a war of aggression and conquest waged by this party to secure both its own continued supremacy and the new consolidated and un-American union of force in place of the pristine confederated union of choice which itself had done so much to destroy; a war in which negro emancipation in parts of the Southern States was incidentally proclaimed as a military measure, the thirteenth amendment coming later to extend and validate this unconstitutional proceeding. "Un-American union of force," I said; we must remember that widespread opposition to the war of conquest against the South manifested itself in the North, and that the myriads of immigrants from centralist, "blood-and-iron" Germany had much to do with turning the scale in the North in support of Lincoln's and Seward's war. (c) In these aliens there had arisen "a new king which knew not Joseph," who had no inconvenient recollections of seventy-six to hold him in check. [Note: The foregoing was originally written before the outbreak of the European war of 1914, much of the responsibility for which must be laid to the charge of this same "blood-and-iron" nation.]

This so-called free-soil movement was more accurately styled a white-soil movement. For hand in hand with the efforts to keep negro slaves out of the new States and Territories of the North and the West went drastic antifree negro laws in those regions as well as in the older Northern States. (These laws are to be found discussed most illuminatingly in Ewing's Legal and Historical Status of the Dred Scott Decision, Ch. IV. See also Northern Rebellion and Southern Secession, by the same author, p. 113.) The negro, slave or free, was not wanted in the North and West. Long since had Jefferson, the honest abolitionist, pointed out that "The passage of slaves from one State to another would not make a slave of a single human being who would not be so without it. So their diffusion over a greater surface would make them individually happier and proportionally facilitate the accomplishment of their emancipation by dividing the burden on a greater number of coadjutors." This warning, like those other warnings of Jefferson and Washington above mentioned, of course, went unheeded by the negro exclusionists of the North and Northwest.

ABRAHAM AND LOT AGAIN

Nullification, or State veto subject to Federal referendum, was practicable in 1833; practicable and successful. In 1860–61 it was not practicable, because a State could not exercise her veto power out in the common territories where the sectional northern party that had just been elected to power threatened antisouthern legislation. Hence, when peace with honor was no longer possible within the union of States, the Southern States turned to the only possible peaceable alternative, secession, or complete withdrawal from that interstate compact of government already so flagrantly violated in act and in promise of further acts to come by their northern sisters.

That the voice and efforts, the counsels and measures of the Southland were still for peace the record abundantly proves.

Sturdy little South Carolina, faithful to the spirit of her departed Hayne and Calhoun, was the first State to withdraw. On her invitation delegates from five other of the cotton States that followed her in withdrawing and later those from a sixth, Texas, met her own delegates in a congress at Montgomery, Ala., February 4, 1861. By this congress was framed the provisional constitution of the Confederate States of America. Jefferson Davis, of Mississippi, was chosen Provisional President of the new union.

On February 15, 1861, before the arrival of Mr. Davis at Montgomery to take the oath of office, the congress passed a resolution providing "that a commission of three persons be appointed by the President elect as early as may be convenient after his inauguration and sent to the Government of the United States for the purpose of negotiating friendly relations between that Government and the Confederate States of America and for the settlement of all questions of disagreement between the two governments upon principles of right, justice, equity, and good faith."

Truly, as Mr. Stephens, of Georgia, one of the delegates to this Montgomery congress, says in his history of the United States these "were not such men as revolutions or civil commotions usually bring to the surface. * * * Their object was not to tear down so much as it was to build up with the greater security and permanency." And we may add that they meant to build up, if so permitted, peaceably.

In this spirit of amity and justice the first act of the Louisiana State convention, after passing the ordinance of secession, was to adopt, unanimously, a resolution recognizing the right to free navigation of the Mississippi River (which flows down from the Northern States of the great inland basin and empties into the sea within the confines of Louisiana), and further recognizing the right of egress and ingress at that river's mouth and looking to the guaranteeing of these rights.

President Davis's inaugural address, delivered February 18, 1861, breathed the same spirit of friendship toward our brothers of the North. He said, in part:

OUR PRESIDENT'S INAUGURAL

"Our present political position has been achieved in a manner unprecedented in the history of nations. It illustrates the American idea that governments rest on the consent of the governed, and that it is the right of the people to alter or abolish them at will whenever they become destructive of the ends for which they were established. The declared purpose of the compact of the union from which we have withdrawn was to 'establish justice, insure domestic tranquillity, (d) provide for the common defense, promote the general welfare, and secure the blessings of liberty to our selves and our posterity'; and when, in the judgment of the sovereign States composing this confederation, it has been perverted from the purposes for which it was ordained and ceased to answer the ends for which it was established, a peaceful appeal to the ballot box declared that, so far as they are concerned, the government created by that compact should cease to exist. In this they merely asserted the right which the Declaration of Independence of July 4, 1776, defined to be 'inalienable.' * * *

"Thus the sovereign States here represented have proceeded to form this Confederacy; and it is by abuse of language that their act has been denominated a revolution. They formed a new alliance, but within each State its government has remained; so that the rights of person and property have not been disturbed. The agent through which they communicated with foreign nations is changed, but this does not necessarily interrupt their international relations. Sustained by the consciousness that the transition from the former union to the present Confederacy has not proceeded from a disregard on our part of just obligations, or any failure to perform every constitutional duty, moved by no interest or passion to invade the rights of others, anxious to cultivate peace and commerce with all nations, if we may not hope to avoid war, we may at least expect that posterity will acquit us of having needlessly engaged in it. * * *

"An agricultural people, whose chief interest is the export of commodities required in every manufacturing country, our true policy is peace, and the freest trade which our necessities will permit. * * * If a just perception of mutual interest shall permit us peaceably to pursue our separate political career, my most earnest desire will have been fulfilled. But if this be denied to us, and the integrity of our territory and jurisdiction be assailed, it will but remain for us with firm resolve to appeal to arms and invoke the blessing of Providence on a just cause."

SOUTHERN OLIVE BRANCHES

Nor did our President content himself with mere words of peace. He promptly acted on the resolution of Congress above cited, and appointed three commissioners from our Government to the Government of the United States. "These commissioners," says Mr. Stephens, "were clothed with plenary powers to open negotiations for the settlement of all matters of joint property, forts, arsenals, arms, or property of any other kind within the limits of the Confederate States, and all joint liabilities with their former associates, upon principles of right, justice, equity, and good faith."

Let me ask, Could anything have been fairer?

These commissioners promptly proceeded on their way. A few days after the inauguration of Mr. Lincoln at Washington they formally notified his Secretary of State, Mr. Seward, that "the President, Congress, and people of the Confederate States earnestly desire a peaceful solution" of pending questions between the two Governments. The full history of these negotiations makes mighty interesting reading. But it is too long a story to be rehearsed in detail here. Suffice it to say that it was through no fault of these commissioners, or of the people and government they represented, that their mission of peace and good will to their late allies of the North came to naught.

South Carolina, shortly after her secession in December, 1860, had taken like steps looking to peace, by sending a commission to negotiate with Buchanan's administration relative to former United States property within her limits.

Yet another effort for peace was made from a southern official quarter in those portentous, ominous months following the sectional victory at the polls in November, 1860. The provisional Confederate Constitution mentioned above was framed and adopted by what were called the seven Cotton States. The border Southern States were yet within the old Union, hoping against hope for continued union, peace, and justice. Among these border States was Virginia, the oldest, the most powerful of them all. By unanimous vote of her legislature all the States of the Union were invited to send commissioners to a conference, to devise some plan for preserving harmony and constitutional union.

This conference met in Washington, February 4, 1861, the very day on which the Congress of the seceded cotton States assembled in

Montgomery. It adjourned February 27. Significantly enough, in view of our present argument, this conference at Washington was called the peace congress. The demands or suggestions of the South in this peace congress were only that constitutional obligations should be observed by all parties; nay, that certain concessions to the North would be agreed to, by means of constitutional amendment, if only the Constitution, as thus amended, might be obeyed. This did not suit the commissioners from the Northern States, as was bluntly stated by one of them then and there, Salmon P. Chase, of Ohio, who was slated for a portfolio in Lincoln's Cabinet, and, therefore, spoke at least quasi et cathedra. So the Peace Congress proved of no avail (e).

We find a similar situation in the Congress of the United States at its regular session that winter. Of the condition there Mr. Pollard says, in his book, The Lost Cause, "It is remarkable that of all the compromises proposed in this Congress for preserving the peace of the country, none came from Northern men; they came from the South and were defeated by the North."

Well might the Southern leaders have adopted for their own the language of the psalmist, "I am for peace; but when I speak they are for war."

It was by virtue of this impossible condition arising within the old union that Southern States, cotton and border, one by one found it necessary to withdraw from that union—which was effected so far as possible, in every instance, peaceably. They had not only the historical, constitutional right to do this, as every real student of constitutional history, South and North, now admits; they had, further, let us here repeat, the general assertion of the Declaration of Independence, governing all like cases, to support them. As pointed out by President Davis, in the above quotation from his inaugural, a prime object in establishing the Constitution of the United States and the federative government thereunder, was to "insure domestic tranquillity." The existing form of government under this Constitution having "become destructive of this end," so far as concerned the Southern States, the peoples of these States now moved to peaceably alter the form of government.

And, seldom remembered though it be now, there were at that time many in the North who believed that these Southern peoples had the inalienable right thus peaceably to withdraw. For instance, the New York Tribune itself, organ though it was of the aggressive anti-Southern party of that time, declared in November and December, 1860, after Lincoln's election, as follows:

"We hold with Jefferson to the inalienable right of communities to alter or abolish forms of government that have become oppressive or injurious, and if the cotton States shall become satisfied that they can do better out of the union than in it, we insist on letting them go in peace. The right to secede may be a revolutionary one, but it exists nevertheless, and we do not see how one party can have a right to do what another party has the right to prevent. Whenever a considerable section of our union shall deliberately decide to go out, we shall resist all coercive measures designed to keep it in. We hope never to live in a republic whereof one section is pinned to the residue by bayonets. * * * If ever seven or eight States send agents to Washington to say, 'We want to go out of the union,' we shall feel constrained by our devotion to human liberty to say, 'Let them go!' And we do not see how we could take the other side without coming in direct conflict with those rights of man which we hold paramount to all political arrangements, however convenient and advantageous."

SOVEREIGNTY AND TREASON

Not such men as revolutions generally bring to the front, said Stephens, of the Confederate leaders. True. For be it remembered that these men represented, officially represented, long existent and independent republics already fully organized. The formation of a league or confederacy between these republics was but an incident, an arrangement of convenience, as pointed out by Mr. Davis in his inaugural address. How, then, could States, republics, independent nations, be said to revolt or rebel? A people or a faction rebels against a superior; not against an equal or an inferior. Therefore a creator State of inherently sovereign powers could not possibly rebel against either the creature central government of strictly limited and delegated powers, or against coequal, confederate States. This being so, and Southern individuals acting only as citizens of their respective States, there could be no treason in their conduct.

Why was Jefferson Davis, although long held a prisoner after the war, never brought to trial on the charge of high treason for which he was indicted? It is said (though I am not at this time prepared to vouch for the accuracy of the report) that a solemn warning was sounded forth from the Supreme Court of the United States to the effect that to push such a charge against our fallen leader would be to fool with a combination boomerang and back-action buzz saw. Be that as it may, we know that Mr. Davis, after long imprisonment, was released on bail (Horace Greeley himself being a bondsman), and the indictment was never tried.

AHEAD OF THE TIMES

Yes; the course of the southern peoples was the only course consistent with peace and honor. Alas! they were ahead of their times; and, like all those who in any age or clime dare to be ahead of their day and generation, they have been made to suffer for their temerity. As Charles Mackay, the poet, says:

"That man is thought a knave or fool
Or bigot plotting crime,
Who, for the advancement of his race,
Is wiser than his time."

Civilization takes but one step forward at a time, then pauses and rests before the next step. The southern people of the period of 1789–1861, in the very vanguard of this slowly advancing civilization, acted on the same principle that the same rule should govern in the intercourse between nations and peoples as between individuals, and that rule the golden rule. But they were wiser than their time. Let me explain:

Some three centuries before this the civilized, Christian (?) nations of Europe saw nothing wrong in kidnaping the defenseless heathens of Africa sands and selling them into bondage far from their native haunts. They justified such practice on the grounds alike of expediency and morals. It would bring the heathen under the benign influences of Christianity, and at the same time cause wealth to flow into the ready pockets of their benignant captors. So the oversea slave trade went merrily on for the space of several hundreds of years. Then laggard civilization took a step forward and said that this was all wrong. The African trade, or the theft and forcible importation of negroes, was abolished, and the Southern States took a hand with the rest in abolishing it. Meantime civilization was preparing to take another step forward—to supplement the cessation of slave importation with the abolition of slavery itself. Owing to local causes some communities were more forward in this movement than were others. The situation in the Southern States was thus sensed by Jefferson: "The cession of that kind of property [slaves], for so it is misnamed, is a bagatelle which would not cost me a second thought if in that way a general emancipation and expatriation could be effected; and gradually, with due sacrifice, I think it might be, but as it is we have the wolf by the ears and we can neither hold him nor safely let him go. Justice is in the one scale and self-preservation in the other." Too, it should be added, slavery remained profitable in the South longer than in some other communities, and southerners were but human. But the reform was moving forward everywhere, and was bound to triumph in the end. It ought to have been allowed to triumph peaceably. Out of the differences in local conditions, in this and in other matters, arose the fierce controversies between the Southern and the Northern States of the American Union.

When the contention had waxed so hot that peaceful union was no longer possible, then the Southern States proposed a peaceable separation. The North said, "No; we will force you back." The South said, "No; that is all wrong." The Declaration of Independence, the letter and the spirit of the Constitution, advancing civilization itself, all proclaim in trumpet tones that it is just as wrong for one nation, state, or group of states to conquer another vi et armis and to force upon it a government it does not desire as it is for one man to steal another man and sell him into bondage, or for a nation now (as was formerly done) to deny to its citizens the right of voluntary expatriation.

So spoke the South, wiser than her time. The North, not so wise, essayed to enslave whole States and peoples. For this is what a forcible union of one-time sovereign States means.

It is not within the scope of this address to follow the course of that memorable struggle. From the day of Thermopylæ down, to battle for home and native land against the invader and the despoiler has ever called forth the utmost valor and exertion of patriots. The southern soldiery came of an adventurous, frontier stock. Southrons generally could ride and shoot; and this war they fought to repel the invader. The result was the Confederate warrior, since that time the synonym for all that is best and bravest in war. The fame of the Confederate soldier is deathless; his glory as eternal as the stars. Starvation, not numbers, overwhelmed him after four years of heroic endurance and brilliant feats of arms. The crucial banner of the South sank without a stain upon it, save only the lifeblood of thousands of its martyr defenders.

"THE UNION" UNSAVABLE

In this course of invasion and conquest, in which she was finally successful, did the North, let me ask, really "save the Union," as she professed to do? No; she did not—from the very nature of the thing, she could not. The Union of the fathers, of the Constitution of 1787–1789, was a Union of choice, of peace. That original Union was and is forever gone as between the South and the North. It was ipso facto destroyed by the withdrawal from it of the Southern States. And, like Humpty Dumpty when he fell from the wall, or like the late Mr. Morgan's scrambled eggs, all the king's horses and all the king's men could never (forcibly) put it together again. A Union, indeed, a new, diverse, blood-red Union of force was created and pinned together by bayonets; the Union was not and could not be saved, though it might be restored by the free consent once more of all the parties to the original Union.

And further, the success of the Southern Confederacy would not have meant the destruction of the American Union. By the victory of the

revolted Colonies in 1776–1783 the immemorial union of English-speaking peoples was severed; but only as to these Colonies; the rest of the English-speaking union, known as the British Empire, continues to live, and to live truly stronger and better from the lesson that was well learned when one part of that union was lost through the blunders of sectional aggression.

Not for one moment do I question the honesty and patriotism of the brave soldiers in blue, who, I cheerfully admit, sincerely believed that they were fighting for the Union of the fathers, although many of them allowed themselves to be swept along into this belief. But I do say this, that they, as well as we, were victims of their own juggernaut; that their plea for a forcible American Union was of the same essence with the plea in 1776, for a forcible British union; it was the plea of Old World and world-old imperialism, and a plea which will justify every war of invasion and conquest that has ever stained history's pages.

WHAT MIGHT (AND SHOULD) HAVE BEEN

But the objection is sometimes made that the South's success would have meant the Latin-Americanization of the Southern States; that the principle of peaceable secession once established, all union between the different States would have been no more than a rope of sand, and we would speedily have degenerated into a parcel of petty, mutually jealous republics—perhaps dictatorships. The history of our race refutes the suggestion.

For some two thousand years the Anglo-Saxon and the Celt have wrought out, link by link, on the anvil of hard experience and dogged experimentation the everlasting principles of self-government. The success of the Confederate States of America would have turned out another and a stronger link, would have marked another glorious step forward in the laborious progress of liberty and self-government. Ours is a patient race, no less than a progressing one, and the successful termination of our second War for Independence could never have changed that bent of mind and habit of action that stand behind the following assertion in the Declaration of Independence:

"Prudence, indeed, will dictate that governments long established should not be changed for light and transient causes; and, accordingly, all experience hath shown that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed."

After the triumph of our first war of secession more than three-quarters of a century passed, during which this right of secession, as now reinforced by constitutional provisions, was often asserted before it was actually resorted to. There is no reason to think that a second successful application of this drastic remedy, and under a like strong provocation, would have cut us adrift from our previous caution and long-suffering.

Again, it is argued that there would have been constant causes for friction and even bloodshed arising between the Confederate States of America and their neighbors to the north, the United States of America. Well, would that sort of bloodshed have been any bloodier than the four years of it that was suffered in imposing the Union's yoke upon the Southern States? But, after all, are we so sure that those two powers, once they had started together in the pathway of peace, would have been unable to continue side by side in amity? Despite strong provocation at times we manage, nearly all of the time, to preserve the peace even with storm-rocked Mexico. And we are about to celebrate a century of peace with those ancient enemies of ours, now our British and Canadian friends, although during the whole of that period they have formed our entire northern land boundary, and although "another Mississippi" (the Great Lakes and the St. Lawrence) flows from our territory through theirs to the sea.

Another objection, or theory: That, after all, it is better for the South that the war should have ended as it did. No, a thousand times no: First and foremost, because evil should never be done that good may come of it and because Appomattox put back a half-century or more the hand of progress on the dial plate of civilization; second and secondarily, because the history of the 50 years succeeding the war is a record of legislation hostile to the material interests of the Southern portion of what is called a reunited country. Under the first of these two heads we may add, that not only was progress thus retarded, but that a new and dangerous element has been introduced into the body politic—the spirit of evasion of the fundamental law. If you doubt it, see how certain provisions of the fourteenth amendment to the Federal Constitution have become practically a dead letter, and by well-nigh universal consent. This fourteenth amendment is one of the "war amendments," as they are called.

FATE AND THE CONFEDERACY

But fate, we hear it said, had decreed the downfall of the Southern Confederacy. The very stars in their courses, we are told, fought against the South, even as they fought against Sisera of yore. That assertion I shall not here stop to dispute, beyond remarking that the final outcome of the war was extremely doubtful until within less than eight months of General Lee's surrender—probably so, that is, until Atlanta fell a few weeks before the date of the presidential election of 1864 in the United States. But—what is meant by "the stars in their courses"?

Come with me, on a clear, moonless night, and scan that part of the heavens that encircles the pole star and in which the entire course of a given star is above the horizon. Watch with me some bright stellar sun which, having left the zenith, gradually descends the western sky, appears to stand still a while at the extreme westernmost point, then swings slowly but surely eastward again on the return sweep around the pole, yet still descending until it reaches the nadir, whence it gradually ascends again as it swings ever on toward the east. Other stars, farther south, not thus visible throughout their entire orbits, appear to the eye of the observer to set, and are blotted out of sight a long while before they rise again.

Yes, the stars indeed march resistlessly on in their courses; but those courses are in circles.

THE CONFEDERATE DAY-STAR

There are signs in the political heavens that Dixie's guiding star, her glorious constellation the Southern Cross of battle, which set blood red at Appomattox, is now appearing in the east, a pure, glistening white, the day-star of hope and happiness for the Southland and for the world.

To explain, and to drop the figure. Certain great world tendencies in the forward march of civilized mankind are found in diverse yet complementary pairs; first one, then the other, predominating in alternate pulsating cycles. Broadly speaking, the nineteenth century was an era of the predominance of the centripetal power in government, the ascendancy of the central political authority. The triumph of militant French democracy in the revolution of 1789 quickly merged into the imperial despotism of Napoleon, the erstwhile republican conqueror; this was succeeded by the return of the Bourbons to power. Just at this time our Latin neighbors to the south, not yet schooled for true liberty, broke away from enervated Spain; but we must remember that it was only the joining of hands of the United States and Britain, and the resultant raising of that shield of the western world, the Monroe doctrine, that checked the reactionist "Holy Alliance" of continental Europe in its project of forcible recovery of these revolted Spanish colonies—so, at least, it is supposed. The second French Republic, born out of due time in the abortive convulsions of 1848, was speedily swallowed up by the second Empire, which eventually gave place to the third (and semimonarchical) Republic. The great revolutionary upheavals of 1848 throughout Europe were generally suppressed. Within the next few years Kossuth and the cause of Hungarian independence went down before the imperial Hapsburgs; Poland in vain sought to regain her lost nationality; the former independent or autonomous principalities and electorates of Germany became welded into the modern German Empire with the ruthless Bismarck at the helm.

In the face of this ominous reaction in the Old World, the glorious ensign of confederated southern independence was raised aloft in our own stormy sky. The dragon teeth of overweening, un-American imperialism sown by Webster 30 years before bore their rich harvest of armed cohorts from the North, and the southern Confederacy, latest and most promising of freedom's growing family of happy nations, was swept from the face of the earth. And, significantly enough, in the midst of our struggle for independence it was the fleet of autocratic Russia, inveterate foe to liberty, that wintered in New York Harbor to lend moral support to the cause of northern aggression and conquest as against the threatened aid of more enlightened England to the cause of the South—England, always a well-wisher of a weaker people fighting for freedom, except only when she herself happens to be the oppressor—England, who at a later time crushed down the liberty-loving Boers in a war in many particulars most strikingly like the war on the Confederacy.

But now, thank God, the trend amongst progressive and, at heart, liberty-loving peoples is once more away from imperialism and forcible union. For, under imperialism and forcible union, there is no adequate protection for a sectional minority; remember that. Imperialism and forcible union are in their workings robbery of the right of local self-government, which is the alpha and omega of political liberty. From about the close of the nineteenth century on, what do we see? The waning of the centripetal force in government, the waxing of the centrifugal. In the world-old strife between liberty and power, liberty begins again to prevail in the renewed recognition of the saving principle of home rule and the rights of the minority.

We ourselves in 1898 helped Cuba in her stand for freedom. Five years later we aided and abetted Panama in her secession from the United States—of Colombia. We thereby officially and governmentally recognized (whether with due regard to our duty toward Colombia we need not here inquire), solemnly recognized, that the interests and desires of the whole are not always paramount to the rights of a part; yea, even though the territorial integrity of the United States—of Colombia—was thereby sacrificed. Shortly thereafter we see Norway resolutely sunder the bonds of union with her homogeneous sister, Sweden. And the wayward, weaker sister (with about the same proportion of area and population of the whole Scandinavian union as the South had of the whole American Union) is in this instance allowed to go in peace, just as certain in the North

were fair enough and brave enough to advocate, but vainly, be done with us in 1861. And later still we see something like secession from secession in the case of Ulster and Ireland.

Even in the matter of amending the Federal Constitution, behold Senator La Follette's "gateway amendment" by which a minority is empowered to propose amendments. A similar provision was made 50 years before in the constitution of the Confederate States of America; a most decided improvement in favor of the rights of the minority over the cumbersome and reactionary provision of the Federal Constitution requiring a two-thirds majority even to propose amendment for consideration by the amending power.

These, I submit, are no fanciful comparisons, no imaginary parallels. No matter what may be all the details, all the motives, in each case, on the whole we may confidently affirm that through it all runs a larger sense than before of the rights of the weaker; of the beauties and blessings of peace; of the folly, and worse, of war. The Hague tribunal and the Bryan peace treaties are further witnesses to this auspicious change. To come nearer home, an acquaintance of mine, a gentleman from California, remarked casually, in the course of a conversation with me, that among the people of the Pacific coast there was quite a good deal of talk to the effect that they have their own interests and are quite capable of maintaining a separate political existence; although, he added, there is among them, too, a strong attachment to the Union. Just how these two things are reconciled, or to be reconciled, he did not say. And (another coincidence) much of the differences, if such we may style them, between the Pacific States and the East, like the former controversies between South and North, arise from a race question growing out of the presence in their midst of an alien, dark-skinned race.

OUR PAST EXEMPLARS OUR FUTURE GUIDES

So we see the tardily turning tide of national and international ideals and tendencies at last following the once overwhelmed, never really lost, current of Confederate principles. And the South, the ever faithful South, of later times we find revering her leaders of the earlier and darker periods, for "there is life in the old land yet."

We find the South, near half a century after Appomattox, risen phœnix-like from the ashes of war and reconstruction and pushing forward in all fields of endeavor. Agriculture, commerce, manufactures, education, literature, good roads, adjustment of her race problem without undue outside interference (hence, as more of a sociological, less of a partisan, sectional question)—in all these the peoples of the Southern States were making splendid progress and were rapidly recovering the lost ground in political leadership. But, in the midst of all this it was that, by separate but similar acts, three Southern States, for themselves and for the South at large, linked the present with the past for the future in a way most significant.

In the first decade of the twentieth century the South placed among the officially designated immortals of the several United States in Statuary Hall at the Capitol Building in Washington city the effigies of John C. Calhoun, of South Carolina, and Robert E. Lee, of Virginia; and on the sterling plate service of the battleship *Mississippi* the likeness of Jefferson Davis, of Mississippi and Kentucky. There they remained, fitly typifying the South's own contribution to the cause of true liberty as against overweening power, her chosen champions of the two phases of constitutional home rule through State sovereignty, viz: Nullification or State veto subject to Federal referendum, and secession or resumption of full powers by the State; and only when these are scorned by her oppressors and all constitutional redress denied, then the stainless sword of defensive war (f).

Calhoun, Davis, Lee—men with private lives as spotless as their political principles are true, exemplars of the Southland's past, guides for her future.

Yes, our constellation was only obscured, it did not really set at Appomattox; the Southern Cross of minority rights, home rule, and arbitration once more flames in the morning sky, and it shall shine more and more unto the perfect day, if the South—America—the world is to have true progress with peace.

COL. CARL L. ESTES—OUACHITA NATIONAL PARK

Mr. CARAWAY. Mr. President, I have a letter from the Governor of the Commonwealth of Texas, and letters from all the ministers of Tyler, Tex., from the presidents of the banks of Tyler, Tex., and from the chamber of commerce of that city, all bearing testimony to the high character and strict integrity of Colonel Estes, whom the Secretary of the Interior so grossly insulted. After reading the letter of the governor I wish to place all of the other letters in the RECORD. The governor's letter is addressed to me and reads as follows:

EXECUTIVE DEPARTMENT,
Austin, Tex., April 3, 1928.

Hon. T. H. CARAWAY,
Member of United States Senate,
Washington, D. C.

MY DEAR SENATOR: I am grateful that you came to the defense of my personal friend Carl L. Estes, of Tyler, Tex., in connection with the incident which occurred in the office of Secretary Work.

After reading the letter which the Secretary addressed to Senator PHIPPS and the statement prepared by Mr. Estes, I can not wonder that Mr. Estes resented this treatment or that Mr. Work felt the necessity of a letter of explanation.

Those of us who know Carl Estes have every confidence in his truthfulness, integrity, and sterling character. Your prompt defense of him is typical of the loyalty and confidence which his friends receive from him and to which he is entitled.

Yours very truly,

DAN MOODY.

I have already had inserted in the RECORD the statement of Colonel Estes denying that the man from Georgia, who so miraculously showed up to be a witness for the Secretary, was not, in fact, present. I am confident from all that occurred that the Secretary knows that when that letter was written it was written by somebody who was not present, somebody who was telling a lie in his behalf, and that he was willing to avail himself of it.

I ask that the letters to which I have referred may be printed in the RECORD.

The VICE PRESIDENT. Without objection, it is so ordered. The letters are as follows:

CHAMBER OF COMMERCE,
Tyler, Tex., April 2, 1928.

To whom this may concern:

To: Senator CARAWAY, Arkansas; Gov. Dan Moody, Austin; the Associated Press, Dallas.

We, the undersigned ministers of the Gospel in Tyler, Tex., unhesitatingly state that Col. Carl L. Estes, newspaper man of this city, is a truthful, upright citizen of this town, and that you can depend upon what he says as the absolute truth.

Signed: C. M. Raby, Methodist; Jas. G. Ulmer, Christian; Robert Hise, Presbyterian; Jas. T. McNew, Baptist; W. N. Claybrook, Episcopalian; Jos. M. Haddad, Grand Knight, K. of C.; M. Faber, rabbi, Temple Beth-El; Floyd E. Alett, Bostick Switch Baptist.

CHAMBER OF COMMERCE,
Tyler, Tex., April 2, 1928.

To whom this may concern:

To: Senator CARAWAY, Arkansas; Gov. Dan Moody, Austin; the Associated Press, Dallas.

We, the undersigned bankers of Tyler, Tex., unhesitatingly state that Col. Carl L. Estes, newspaper man of this city, is a truthful, upright citizen of this town and that you can depend upon what he says as the absolute truth.

GUS F. TAYLOR,
President Citizens National Bank of Tyler.
SAM R. GANS,
President People's National Bank.
C. J. BROGAN,
President Tyler State Bank & Trust Co.

CHAMBER OF COMMERCE,
Tyler, Tex., April 2, 1928.

To whom it may concern:

I take great pleasure in stating that Col. Carl Estes, of Tyler, Tex., is well and favorably known to me.

There is not a shadow of a doubt as to his integrity or veracity. His moral character and deportment are above reproach.

Respectfully,

TYLER CHAMBER OF COMMERCE,
E. P. MCKENNA, *President.*

SENATOR HEFLIN'S REPLY TO MAYOR GUNTER, OF MONTGOMERY, ALA.

Mr. HEFLIN. Mr. President, I ask unanimous consent to have printed in the RECORD a letter from me to the mayor of Montgomery, Ala., regarding the presidential primary in our State, in which I discuss Governor Smith.

The PRESIDENT pro tempore. Without objection, leave is granted.

The letter is as follows:

WASHINGTON, D. C., *April 7, 1928.*

Mayor WILLIAM A. GUNTER,
Montgomery, Ala.

MY DEAR MR. GUNTER: You must pardon me for not answering your telegram sooner. I have been so busy with my duties in the Senate that I have not had the time to write what I felt should be said in response to your challenge, but since Alabama friends have informed me of your attacks upon me recently when you were trying to please the Roman Catholic mayor of New York City, Mr. Walker—Al Smith's gold-dust twin—I have decided to bring at this time certain things to your attention and to the attention of the people that you are asking

to send you as a delegate from the State at large to the Democratic National Convention.

So far as I can learn you have refused to tell the people of Alabama just how you stand on the candidacy of the most dangerous candidate for President to-day before the Democratic Party. No man should seek to obtain votes under false pretenses. At least four-fifths of the Democrats of Alabama are against Al Smith first, last, and all the time. Are you for him or against him?

When you joined with the Roman cohorts in denouncing me they knew that you spoke their language and that they could trust you.

As a Senator from the great State of Alabama I felt that it was my duty to do what I could to prevent war with Mexico, and I went to work doing everything in my power to prevent such a war. I found on investigation that those who were advocating war with Mexico and seeking to use the United States Army to overthrow the present Mexican Government were Roman Catholics. I exposed their un-American program and criticized their strange and inexcusable conduct. I led the fight which resulted in defeating their war program. Do you indorse or condemn the work that I did to prevent war with Mexico? Do you think that I did wrong in exposing in the Senate the efforts of the Roman Catholic Knights of Columbus and the efforts of a Mr. BOYLAN, a Roman Catholic Congressman from New York City (Al Smith's close friend), who introduced in Congress a resolution demanding that the United States immediately sever diplomatic relations with Mexico, which meant war?

I am the first man in either branch of Congress to bring that serious matter to the attention of the American people. Would you have had me refrain from doing that because those who wanted to involve us in war with Mexico were Roman Catholics? Miss Semple, a nun and Roman Catholic mother superior, a sister to your deceased brother-in-law, Darry Semple, appeared and testified in support of the Catholic program for war with Mexico.

After Miss Semple, nun and Catholic mother superior, and others had been here to urge Congress to support the Catholic program for war with Mexico, the New York World said editorially:

"If you don't want war with Mexico, write your Members of the House and Senate to oppose it. We are dangerously near to war with Mexico."

Was it not time for me and other Senators to get busy and oppose such a war?

Permit me to remind you that I have not forgotten the last war—the World War. It pained me to see our soldiers go away to fight on foreign soil. In that case we were not to blame. Then American rights, interests, and liberties were at stake and we had to fight; but in this instance it was purely and wholly a Roman Catholic question. I said that Congress had no right to involve the United States in war for the purpose of fighting the battles of the Roman Catholic Church in Mexico. Was I right or was I wrong?

When you attacked me on my work in the Senate on this question you put yourself on record as condemning my position, and as one who was in full sympathy with the Roman Catholic political program and their program for war with Mexico. I had attacked both. I never want to see another Alabama boy, or any other American boy, leave home and loved ones and go away from the United States to engage in war in foreign countries.

In the World War some of the bravest and finest boys in Alabama and other States lost their lives on the battle fields of France, and their loved ones still "long for the touch of a vanished hand and the sound of a voice that is still." War is a horrible thing. In its wake are broken hearts and ruined homes. "Its path is wet with human blood and paved with dead men's bones."

Do you think that I should have remained silent when Roman Catholics were trying to get the United States to go to war with Mexico in order to restore the Catholic Church to power there? I heard nothing from you then.

The Catholic-controlled press of the United States praises Mussolini, of Italy. The Fascist Society that he organized and used to close Protestant churches and deny religious freedom to Protestants and Jews in Italy, and to tear down Masonic lodges and murder Masons, is now organized and operating in the United States. They are undisturbed as they carry on their un-American activities in Governor Smith's home State, New York, and New York City.

Not long ago the Mussolini Roman Catholic Fascists in the United States held a convention at Philadelphia and they sent the following remarkable telegram to Mussolini in Rome:

"Central Fascisti, closing its second annual reunion, send expressions of true devotion to the Duce (Mussolini) and renews its oath of allegiance to do his will and to carry out his orders to the end."

Does not that look like another arm of Roman power reaching over into the United States? This, I repeat, is the order that destroyed free speech in Italy, denied Protestants and Jews the right to worship God in accordance with the dictates of their own conscience. The same order destroyed Masonic lodges and murdered Masons in Italy. Italian Catholic fascism is dangerous to American rights and liberties. It has been characterized as a branch of Mussolini's foreign army. The telegram sent to Mussolini supports that theory. Do you think that I am doing right in calling attention to the menacing presence of these dangerous un-American organizations?

You were not content with your reflection upon me, and your efforts to injure me in your telegram to Senator ROBINSON, who is condemned by thousands of Democrats in Arkansas, Alabama, and the other States, for his inspired attack upon me for exposing the Catholic conspiracy. You tried to lend dignity and force to your attack upon me by stating that you were speaking for a majority of the people of Alabama. What induced you to even imagine that you, in defending the Roman Catholic war program which would call for the killing of Alabama boys in Mexico, and trying to discredit and cripple me in my efforts to defeat their plan to involve the United States in war with Mexico in behalf of the Catholic church, were speaking for a majority of the people of Alabama? Did you think that I would not know of your family's Roman Catholic connecting link and your peculiarly intimate Roman Catholic environment?

You were not content, as mayor of the capital city of my State, with using your official position to attack, misrepresent, and slander me in your telegram to Senator ROBINSON, who seemed to have pleased you by his strange speech in opposition to my criticism of the un-American conduct and dangerous activities of the Roman Catholic political machine. You then sent a telegram to me—bold, arrogant, and in a Roman Catholic tone—challenging me to become a candidate for delegate against you from the State at large to the Democratic National Convention.

In your telegram you unfortunately used language the substance of which Catholic-controlled newspapers had frequently used in their attacks upon me for opposing their Mexican war program, to wit: That I was "trying to dynamite free speech and free religion out of the Constitution." And I want to remind you of another thing: Your attack upon me followed my denunciation in the Senate of your friend Al Smith. You hastened to get into the fray and have your say because of the truths that I was telling on your candidate for President.

When I was receiving letters from citizens all over Alabama and from every other State, commending me for the work that I did to prevent war with Mexico, I never had a line from you as mayor of Montgomery. You never thanked me for what I had done as a Senator from Alabama to prevent the killing of Alabama boys in a war with Mexico, but when I exposed the Hearst-Roman Catholic-Mexican conspiracy to injure me, an Alabama Senator, and destroy me if possible by dragging my name into a diabolical scandal, you joined with my enemies and with the enemies of your country and used the office of mayor of the capital of our State to injure and discredit me. When this thing happened I could not help thinking of the Roman Catholic family connection that I have referred to and also of the Jesuit priest brother of your brother-in-law.

ROMAN CATHOLIC ATTACK UPON MASONS

The Roman Catholic hierarchy has always fought the Masonic fraternity. A few years ago the New World, the official organ of the Roman Catholic bishops of the diocese of Chicago, contained an article which bitterly attacked and denounced the Masonic order. Among other mean things, it said: "As compared with Freemasonry, the 'Black Hand' Society of the Italian Mafia (cutthroats and murderers) is a praiseworthy organization." That statement is an insult to the name and fame of Washington, Father of his Country.

Here is what Washington, Master Mason, who led the Continental Army in achieving American liberty and was first President of the United States, said about the Freemasonry so bitterly attacked by the Roman Catholics of Chicago: "Freemasonry is a fraternity whose liberal principles are founded upon the immutable law of truth and justice, and whose grand obligation is to promote the happiness of the human race."

MASONRY OPPOSED BY MUSSOLINI

Doctor Fama, an able and loyal American, born in Italy, but now a Presbyterian minister in New York, in an article appearing recently in the New Age, the Masonic magazine published here in Washington, said:

"There is one body of men in Italy, strong in their bonds of freedom, whom Mussolini can not bribe and whose spirit he can not conquer or destroy. They are the Masons."

The unification of Italy was accomplished in 1870 by the forebears of these men. The petty tyrants ruling that land against the will of the people were subdued by the religion of freedom preached by the Masons. Freedom and democracy and brotherly love, and peace and equality were the result of the infusion of Masonic principles into the statesmanship practiced by Cavour, Mazzini, and Garibaldi.

Separation of church and state is recognized, even in England, as the basic principle of true liberty, and up to the time of Mussolini Masonry was the equalizing force in Italy between church and state. It was Masonry that emancipated the Roman Jew from the foul insult of the ghetto system. It was Masonry that enabled American, British, and other Protestants dwelling in Italy to absorb her art, to worship in freedom according to the dictates of their own conscience.

Italy's greatest men were Masons. Her army was commanded and kept efficient by members of the craft. The judges of her law courts, the professors of her universities, numbered among them Masons by the

scores. These men taught the Masonic principles of loyalty, love, liberty, and hatred of tyranny. In this fact Mussolini found his greatest obstacle to absolutism.

Masonry declined to allow the destruction of the second Italian renaissance. Masonry declined to be bribed. Mussolini ordered the lodges destroyed. The Masonic temple in Rome was appropriated to his own use. The furniture and records of Masonic lodges in Italy were burned in public squares. Edicts were issued ordering the discharge from the public service of those employed therein who had any connection with Masonry.

In October, 1924—the records are clear and unimpeachable—blackshirts entered the homes of recalcitrant Masons in Florence and murdered them before the horrified eyes of their families. Stores in the larger cities of Italy owned by Masons are fitting prey for blackshirt brigands. They are frequently looted and destroyed.

A vice consul of the United States was cudgeled, it was reported, for failing to raise his hat to a group of marching Mussolini blackshirts. A medical friend of mine (Italian), living in New York, when paying a professional visit to Naples was thrown into a cell and held two days until the American ambassador warned Mussolini to release him. The reason given was that he was a Mason who had acquired American citizenship. The questor, or jailer, told this citizen of this country that if he had his way the physician would rot in jail.

Mussolini is the state: Preach liberty, and you go to jail, or are murdered! "I," declaimed Mussolini in one of his public utterances to his blackshirts, "will destroy Masonry in Italy, and when I have finished here I will do my utmost to destroy the pest abroad."

Orders were issued to all consular offices to discharge any and all employees in any way affiliated with the order. The former Italian consul general in New York was recalled because he was a Mason. One of his employees for 20 years was dismissed.

Is not that a terrible indictment against Roman Catholic cruelty and tyranny and Catholic Fascist murder?

The Masonic fraternity is a whole-hearted, thoroughly loyal American institution. It has been foremost of all the old fraternal orders in its efforts to promote and preserve the public-school system of America. It has stood with drawn sword at all times on the dividing line twixt church and state, and in season and out has urged the necessity of protecting the United States against an influx of undesirable foreigners. That is why the hierarchy and Roman Catholic political machine hate the Masons of America.

The late Doctor McDaniel, of Richmond, Va., who was president of the Southern Baptist Convention in 1926, said: "The United States is the country most coveted by the Pope. If the Pope and Roman Catholics had the power in the United States that they have in Italy, would they be as intolerant here as they are there? Judged by every historical precedent, they would."

Just a few months ago, right here in Washington, Bishop Cannon quoted from a Catholic book called "State and Church," published right recently by Doctor Ryan, a Catholic professor of moral theology at the Catholic University of America. He is looking forward to and writing about the day when Catholics are strong enough to assert themselves and control this country. In his book he tells the Catholics just what can be done to enable them to be masters of the situation. Here is the proof. Read what he says:

"But constitutions can be changed, and non-Catholic sects may decline to such a point that the political proscription of them may become feasible and expedient.

"What protection would they then have against the Catholic state?

"The latter could logically tolerate only such religious activities as were confined to the members of the dissenting group. It could not permit them to carry on the general propaganda."

God forbid that they shall ever have the power in the United States to smother Protestantism and set up Catholicism in its place.

Senator Tom Watson, of Georgia, said: "Wherever Rome has ruled, she has left the people sunk in ignorance."

General La Fayette, of France, who fought with our forefathers for American liberty, said: "If America ever loses her liberty it will be through the work of priests and nuns."

Thomas Jefferson, author of the Declaration of Independence and father of the Democratic Party, declared that "without exception every priest-ridden country had lost its liberty."

He that hath eyes to see, let him see; and he that hath ears to hear, let him hear.

In 1916 the Roman Catholic hierarchy and political machine tried to get President Wilson to go to war with Mexico and when he failed and refused to do their bidding, the Roman Catholics voted against him for reelection and did everything in their power to defeat him. The Al Smith bunch bolted the National Democratic ticket and voted with the Republicans in order to punish and if possible to defeat Wilson because he refused to take the United States Army to Mexico to fight for the Pope of Rome.

What would your friend Al Smith do if he had the power, if the head of the Roman government, the Pope, should demand that the Catholic Church be restored to power in Mexico? As President, he would be Commander in Chief of the United States Army and Navy and would have control of both. Would you want to turn this power over to him at a time when Roman Catholics are demanding the overthrow of the present Mexican Government and the reestablishment of the old Catholic government? Have you no more concern for the peace, happiness, and lives of our boys than that? They used their power as voters in the United States to punish President Wilson for refusing to use the United States Army to restore the Catholic Church to power in Mexico. Which government were they serving then—the Roman government or the American Government? "By their fruits ye shall know them."

Doctor McDaniel and Bishop Cannon were right—where the Roman Catholic vote is strong and in the majority, Catholic leaders are bold, arrogant, intolerant, and vindictive. The rule or ruin spirit manifests itself. When I exposed in the Senate the Hearst-Catholic-Mexican conspiracy to punish, and, if possible, to destroy me for successfully opposing the Roman Catholic program for war with Mexico, the Roman Catholic chairman of the Democratic Club of Boston, Al Smith's friend, wired Senator ROBINSON demanding that I be read out of the Democratic Party. Why? Simply because I had dared to denounce the dangerous activities of the Roman Catholic political machine, which shows that they put that Catholic machine above the welfare of the party and the good of the country.

Talk about "intolerance," there it is in a mean and contemptible form. They would have a United States Senator read out of his party for exercising his right of free speech in telling the truth in the Senate.

But that isn't all they did. Thirteen Roman Catholic members of the Legislature of Massachusetts, friends of your friend Al Smith, wired the governor of my State, Governor Graves, to call the legislature in extra session and have it read me out of the Democratic Party. Did you ever hear of such an ignorant and asininical request? Do you want to turn this Government and all that it means to us over to such an intolerant, brutal, and bigoted group in our midst, whose leaders boast that as soon as they are strong enough they will control this country, and that when that time comes no Member of Congress, in House or Senate, will be elected unless the Pope indorses him? All true Americans must and they will fight against the coming of that day.

Do you want those who are seeking to use the Democratic Party as an instrument to carry out the program of the Roman Catholic political machine to take control of and direct the leadership of the great American party of Jefferson? I, like hundreds of thousands of others, am not willing for them to use the Democratic Party as a tail to the Roman Catholic kite; and they are not going to do it if I can prevent it.

IMMIGRATION—THE RIGHT TO RESTRICT IMMIGRATION BELONGS TO EVERY TRUE AMERICAN

True to the principles and traditions of Tammany, Governor Smith is the bitter enemy of restricted immigration. Tammany Members of Congress, in season and out, have voted solidly against every attempt to protect the people of the United States from a deluge of undesirable foreigners whose European habits of thinking and living constituted a menace and danger to American ideals and institutions.

There are two ways of taking possession of a country and changing its policies and principles. One is by subduing it with an army, and the other is by constantly pouring into it large numbers of a certain group of foreigners until those who seek to control have the number necessary to effect the change and control desired.

Some months ago the Washington Post charged editorially that the immigration law was being violated and thousand and hundreds of thousands of foreigners were being smuggled into the United States every year. It is common knowledge that New York, the home city and State of Governor Smith, is one of the most notorious offenders in this regard.

If Governor Smith should be elected President, he would have it in his power to name the Immigration Commissioner and every immigration agent and guard at the gates of our country, and the whole matter of letting foreigners into the United States would be left to the will and pleasure of those named by Governor Smith to administer our immigration laws. Governor Smith and his followers are all opposed to restricted immigration. They want the doors left open so as to be able to bring in millions of Roman Catholics from foreign countries. Are you willing to place in their hands the power to do that?

MEXICO AND WAR

Quite a number of Governor Smith's friends and followers have tried to involve the United States in war with Mexico. The friends and followers of Governor Smith are just as anxious for intervention in Mexico now as they were when I helped to defeat their war program in the Senate.

Several newspapers have called on Governor Smith to know specifically what his position was on this Mexican question, but the governor would not tell them. I called on him in a speech in the Senate to tell how he stood on this very serious question. But Governor Smith has failed and refused to say. Why did, and why does, he keep his position hid from the American people? Is this a secret between the governor and his friends?

If Governor Smith should be elected President, he would appoint the Ambassador to Mexico, he would appoint the Secretary of State, and these two officials would in the main represent our Government on the Mexican question, and the Mexican position and policy of the United States would then be in the hands of Governor Smith and his friends. Did you know that over half of the employees of the State Department here at Washington are Roman Catholics?

Tammany, as a political organization, has a very unsavory reputation. It has been connected with some of the worst political scandals ever brought to public attention in the United States. The two last Democratic Presidents—Grover Cleveland and Woodrow Wilson—both denounced and repudiated Tammany. Governor Smith is a member of the Tammany organization. He is familiar with its history and is in thorough sympathy with its conduct, ideals, and ambitions. His record as a Tammany member of the New York Legislature and as governor of the State was one of sympathy and friendship for the barrooms and whisky traffic.

In addition to being a Tammanyite, he is the arch enemy of legalized prohibition in the United States, and as Governor of the State of New York is the most colossal stumbling block to prohibition law enforcement of all the governors of the 48 States. As governor he favored and approved an act of the Legislature of New York which in effect withdrew New York State from the Union, so far as the eighteenth amendment to the Constitution is concerned. By that act he said in effect, "We have no sympathy with and no respect or support for that part of the Constitution of the United States known as the eighteenth amendment."

Why did you as mayor of Montgomery, the capital city of Alabama, remain silent during the time that my Roman Catholic enemies were seeking to besmirch my name and endeavoring, through falsehood and corruption, to slander me as a Senator from Alabama? When the Senate committee which investigated the Hearst-Catholic-Mexican "frame-up" against me unanimously reported in my favor, declaring that there was no truth whatever in the "frame-up" charges of the Hearst-Catholic-Mexican conspirators—why didn't you, as the head official of the capital city of my State, wire me that you were glad that these crooks and criminals had failed in their infamous purpose to blacken the name of an Alabama Senator?

When the hearings on the Hearst-Catholic-Mexican scandal before the Senate committee disclosed that Avilla, a Mexican Catholic, from whom Hearst admitted he got the forged papers which dragged the names of Senator BORAH, Senator NORRIS, Senator LA FOLLETTE, and myself into a miserable scandal for the purpose of injuring us politically in our States and throughout the country; and that Avilla swore he got the forged papers from Catholic clerks of the Mexican Government, and that he told them he wanted the papers for Bishop Diaz, a Roman Catholic bishop, I never heard a word of condemnation from you of these villainous character assassins who had conspired together to injure and destroy, if possible, an Alabama Senator; you didn't send any telegrams then, but when I denounced those who had fraudulently and corruptly "framed" me in order to punish me for exposing, opposing, and helping to defeat the Roman Catholic program for war with Mexico, then it was that you broke your silence and took your stand on the side of those who hated and wanted to destroy me because I had dared to oppose the Pope's Mexican war program. Then it was that you sent abusive and insulting telegrams to Washington, signing your name as mayor of Montgomery for the purpose of injuring me and aiding those who, through falsehood and slander, were seeking to destroy me because I had been most successful in my efforts to defeat their plan for war with Mexico.

From your recent attempts to serve the "Roman Catholic hierarchy," I take it that you understand and are in sympathy with the Roman Catholic plan and purpose in the United States.

I have already shown you that they tried to use the United States Army to fight their religious battles in Mexico. Were they putting this Government first then, or were they putting Rome first? Doctor Tull, a great Baptist preacher of Arkansas, tells us that Cardinal Gibbons, a notable American Catholic, declared that "It is a marvelous fact worthy of record that in the whole history of the Catholic Church no solitary example can be adduced to show that any Pope ever revoked a decree enacted by any preceding Pope." That means that the doctrines and decrees laid down by any one of the Popes are indorsed and adhered to by all the other Popes.

Well, Pope Pius IX denounced religious freedom and declared "that the state had no right to leave the citizen to have the religion of his or her choice." That doctrine antagonizes every principle of religious freedom in the United States.

But that isn't all that he said on that subject. He said "The Roman Catholic Church has the right to require that the Roman Catholic religion shall be the only religion of the state, to the exclusion of all others." And, according to the late Cardinal Gibbons, of Baltimore, that pronouncement or edict stands as the unchangeable and eternal doctrine of all the Popes.

Well, the Popes have all held that the will of the Pope is the supreme law of all lands, and also that the supreme duty of all Catholics is to do the will of the Pope. Then the will of the Pope is above the law of the land, and their first duty is to do what the Pope wants done. Are you willing to give control over the American Government to a group of people who believe in such doctrines?

The Roman Catholic Tablet tells us that the "Roman Catholic citizens of the United States owe no allegiance to any principles of the Government which are condemned by the Pope." Are they putting the Roman Catholic government above the American Government?

Pope Leo XIII said: "All Catholics should exert their power to cause the constitutions of their state to be modeled to the principles of their church." Can that be construed to mean anything else but that the doctrines of the Catholic Church are to be substituted for the principles of the American Government? Is it their purpose to capture and control this Government?

Nearly 20 years ago the Roman Catholic Missionary declared that "Many non-Catholics fear us as a political organization and are afraid that the Catholic Church will dominate and rule. We are working quietly, seriously, and I may say effectively to that end."

Doctor Brownson, a noted Catholic writer, says: "Undoubtedly it is the intention of the Pope to possess this country. In this intention he is aided by the Jesuits and all the prelates and priests."

And the Catholic World tells us that "The moment is ripe for building a Catholic America, and the strong men are now laying the foundations." Do you want to assist in such a work by putting your friend Al Smith in the White House?

Dr. John Jay Chapman, a learned and noted citizen of Massachusetts, says that the slogan of the Knights of Columbus is: "Make America Catholic."

On September 10, 1924, an Associated Press dispatch from Rome appeared in the Boston papers which stated that the Pope had said that "it was not only his right, but his duty, to advise Catholics how to vote."

Then, if, as the Popes claim, it is the supreme duty of all Catholics to do the will of the Pope, the Catholics of the United States must vote as the Pope, this foreign power and potentate, tells them to vote.

Indeed the Catholic Review has long since taken the stand in the United States that "when a Catholic candidate" is on the ticket it is the duty of Catholics to vote for him.

In spite of this Government's strong and righteous position on the "separation of church and State," the Catholic parochial schools in this country teach Catholic children that that principle is wrong and the Catholic principle of the "union of church and state" is right. Why do they do that? Is this a part of the secret program to change the form of the United States Government and "make America Catholic"?

Did you know that in certain places in the United States, where the Roman Catholics outnumbered the Protestants and Jews, they denied these two latter groups the right guaranteed to every American to worship God according to the dictates of their own conscience? Dr. Richard Henry Dana tells us that at one time in Los Angeles, Calif., the city council, under Catholic control, passed the following ordinance:

"The Roman Catholic apostolic religion shall prevail throughout this jurisdiction, and any person publicly professing another religion shall be prosecuted."

That has been done in every country where the Roman Catholics have had the power to do it. Do you want to see that history repeat itself here, as Doctor Ryan predicts it will do some day?

Did you know that while Al Smith has been elected Governor of New York State four times he has never carried but 4 counties of the 63 counties in the State, and that the 4 counties he carried are the big Catholic counties? The other 59 counties in the State, everyone of them, have gone against him every time he has been a candidate for governor. Only the four city counties controlled by the Catholic vote have gone for him, and now by assembling Catholics in large numbers in the four New York City counties and voting both Catholic men and women they have become strong enough to overcome the vote of the other 59 counties in the State.

Governor Smith, in four races for governor, could not carry a single one of the 59 counties where the American vote controls. In the States where the Catholics control the Democratic organization the Al Smith leaders, are having early presidential conventions and primaries for the purpose of influencing other States that will act later in the spring.

Did you know that Al Smith's Roman Catholic political machine betrayed the last Democratic nominee for President—John Davis—and cast the Catholic vote for the Republican candidate, Mr. Coolidge, for the purpose of having a "pull" on him to get him to go to war with Mexico? Did I do right in leading the fight to defeat their war program?

I will close by repeating what I said in the Senate: "I want all men and women to have the religion of their choice. I am not attacking the religion of the Catholic. I am fighting the insidious and dangerous activities of the Roman Catholic political machine—fighting their efforts to destroy the public-school system of America—fighting their efforts to flood this country with millions of undesirable foreigners. I am fighting their efforts to destroy free speech in and out of the Senate, free press, and the right of peaceful assembly, as they have done in Rome. No Alabama boy, and no other American boy, is going to be

killed in Mexico fighting the battles of the Pope of Rome if I can help it. I repeat, I am willing for the Catholic to have his religion, but I am not willing for him to have the United States Army to fight his religious battles in foreign countries."

God help the Democrats of Alabama to see the importance of going to the polls in the primary on May 8 and voting for delegates who will vote against and work against the nomination of Al Smith.

Very truly,

J. THOMAS HEFLIN.

THE WORLD COURT

The VICE PRESIDENT. Morning business is closed. The calendar under Rule VIII is in order.

Mr. REED of Pennsylvania. Mr. President, I dare say a large number of Members of the Senate have been receiving letters, as I have been, with regard to what is known as the Gillett resolution for adherence to the World Court. I suppose I am receiving about a hundred letters a day urging support of the resolution, and most of them from people whose letters show that they do not understand the nature of the question. It occurred to me that it would be helpful to other Members of the Senate if I were to put into the RECORD a form letter which has been sent out broadcast through my State, and no doubt through the rest of the country, urging that citizens of our States should write to us to demand our support of that resolution.

The letter to which I refer has been sent me by several people in Pennsylvania who do not agree with the suggestion of the writer, and who sent it because they want us to know the source of the propaganda which is keeping our clerks so busy in acknowledging the communications. This letter comes from the American Foundation (Inc.) Maintaining the American Peace Award. It is dated 565 Fifth Avenue, New York City, March 27, 1928.

The letter is signed by Esther Everett Lape, member in charge, and it reads as follows:

DEAR MR. ———: Will you, and perhaps others in Clearfield who share your interest in international affairs, consider the advisability of expressing your opinion now on a critical aspect of the World Court matter, a question profoundly affecting our international relations?

Senator GILLETT has introduced in the Senate a resolution taking up the court matter again. If you have been interested in the court and in the attempt it represents to substitute international law for war, you must share the vast regret felt by thousands because the United States is still outside it.

It is now more than two years since the Senate, by a bipartisan vote of 76 to 17, passed a resolution providing for our entry into the court with certain reservations. It is a year and a half since the member nations of the court replied to these reservations, accepting most of them outright, expressing doubt as to the scope of one of them, and suggesting that a "further exchange of views" might clear up any remaining misunderstandings. To this courteous suggestion the United States has not replied.

The Gillett resolution aims at just one thing—to bring about this "further exchange of views." It would probably lead to agreement, for eminent jurists do not consider that the differences are fundamentally great. In any case, a regard for international courtesy demands that the United States make some reply to the last communication of the member nations of the court.

Leaders of both parties support the resolution. Its introducer, Mr. GILLETT, is a Republican member of the Foreign Relations Committee and a friend of the administration. He is supported in the matter by Mr. SWANSON, Democratic leader in the Foreign Relations Committee.

As a member of the Foreign Relations Committee, your Senator, Mr. REED, is in a position to influence early and favorable action on the Gillett resolution. Won't you write to him, and also to Senators GILLETT and SWANSON, expressing your hope that the resolution will certainly be passed this spring. Will you ask friends to write also or to join you in a group letter? And will you ask local organizations to forward resolutions of indorsement to the Senators named above? Please let us know any action you take.

Sincerely yours, ESTHER EVERETT LAPE,
Member in Charge.

Opinions from leading men and women of both parties are inclosed. If you need further copies of the resolution, please write.

Mr. President, that letter has been sent out in vast quantities throughout Pennsylvania. The well-intentioned people who have written to all of us urging us to support the so-called Gillett resolution are not told in this letter what the facts are. They do not understand those facts. I make no complaint of the appeal that they make to us to support the resolution, but I do think that it is worthy the attention of the Senate to notice the contrast between these propaganda letters and the actual facts.

The truth is, Mr. President, that up to the present time the adherence to the protocol of the World Court as voted by the Senate has been acquiesced in by only five nations, and they are Albania, Cuba, Greece, Liberia, and Luxemburg; while all the rest of the world remains in dissent.

Twenty-three nations have replied to the letter of the State Department setting forth the terms under which we will join the court, and each of the 23 find fault with reservation No. 5 in our resolution of adherence. Reservation No. 5, the Senate will remember, was—

That the court shall not render any advisory opinion except publicly after due notice to all States adhering to the court and to all interested States and after public hearing or opportunity for hearing given to any State concerned; nor shall it, without the consent of the United States, entertain any request for an advisory opinion touching any dispute or question in which the United States has or claims an interest.

Twenty-three nations have declined to accept that reservation. Either seven or eight nations—I think seven—have merely acknowledged receipt of the message from this country, saying that we would enter according to the reservations outlined by the Senate. Although it was sent to them nearly two years ago, we have had no communication from those seven nations save the bare acknowledgment of receipt of the message. Several nations, with even less courtesy, have not even acknowledged receipt.

There is the picture that confronts the administration and the Senate with regard to the World Court to-day.

Mr. KING. Mr. President——

Mr. REED of Pennsylvania. I shall have finished in a moment, and then I shall be glad to answer questions.

The President has no power to vary to the extent of one comma the reservations as outlined by the Senate. The President could not negotiate with other countries in any way which was in conflict with the policy outlined by the Senate; and yet we know that with the exception of Albania, Cuba, Greece, Liberia, and Luxemburg the reservations of the Senate will not be acquiesced in.

It was very well said by the Assistant Secretary of State, Mr. Castle, in a speech he made last January that when the pursuit of peace becomes a fad the cause of peace is injured. It can be nothing more than a fad, and a vain and futile and pernicious fad, to urge the President to conduct or to urge the citizens of the United States to think that the President could conduct negotiations that will resolve the impasse in which the World Court stands to-day. Any such gesture as that is a futile gesture and contributes nothing to the cause of world peace.

We are making great progress at this time toward the completion of treaties of arbitration with the great nations of the world. That represents a substantial movement in the cause of peace which will bring practical results, adding to the happiness and tranquillity of the world. This, however, is an empty gesture; and I sometimes resent the patronizing assumption that because the Senate does not instantly acquiesce in every such suggestion as this it is because the Senate and the Members of the Senate are desirous of war. Some of us know more by personal experience about the horrors of war than do the propagandists who write these letters; and it is fair to say that we detest and abhor war as much as they do, and with at least as good reasons, and that we are just as anxious as they to avoid a repetition of those horrors that we saw 10 years ago. To imply, however, that our unreadiness to vote for a gesture, which can only be an empty gesture, which can have no other effect than to create ill feeling instead of allaying it, evidences any lack of devotion to the cause of peace, is unfair to the Senate and untrue in fact.

I am glad to answer the Senator's questions, if he has any.

Mr. KING. Mr. President, does not the Senator think that either the executive department, through diplomatic channels, or the Senate itself, should explore the avenue which will lead to a proper interpretation or understanding of the words of reservation 5, quoted by the Senator, in which the World Court is interdicted from giving an advisory opinion in regard to any matter in which the United States has an interest or claims to have an interest?

It seems to me that that language is susceptible of misunderstanding. My recollection of the debates in the Senate is that there was no unanimity of opinion with respect to the proper interpretation to be placed upon those words. There was no clarifying declaration, so far as I now recall, that would enable Senators or the people of the world—the nations who have adhered to the protocol—to understand just what we meant when we said that we would not adhere to the World Court if any opinions were given as to matters in which we had an interest or claimed an interest.

I repeat, there was nothing stated that would indicate clearly what interpretation we placed upon those words. If we mean a real interest in the juridical sense, as lawyers use the word, then that is a very proper reservation. If it is a fantastic claim which we might assert to having an interest in some matter entirely foreign to the interests of the United States, and we joined the World Court upon the hypothesis that we could prevent the court from giving an opinion in regard to such a matter, then I am sure that those who are members of the court might well hesitate for a long time before they accepted our position and assented to the reservation which we made.

It does seem to me that the able Senator from Pennsylvania, great lawyer as he is, knowing the misinterpretation which the laity, if not real lawyers, would place upon the word "interest," claimed or otherwise, must appreciate the fact that the other signatories to the protocol might hesitate to accept our reservation with a lack of understanding as to the exact meaning to be placed upon those words. It does seem to me that the Senate ought to initiate some steps that will lead to a clarification of the meaning of those words. Let us declare that we mean a real interest as understood in a juridical sense. I am persuaded that if we would do that—if we would interpret the reservation which we have made in the proper way—the nations who are signatories to the protocol would welcome us into the World Court promptly.

Mr. REED of Pennsylvania. Mr. President, it seems to me that the Senator's suggestion amounts to no more than that the United States should express to the other nations a statement that it will not claim a fantastic or imaginary interest, but will act only in good faith in any claims that it may set forth as to an interest in these moot questions. It seems to me that almost we would stultify ourselves if we were to couple our reservation with an assurance that we made it in good faith. I hope our sister nations are ready to grant that our reservations are made in good faith, and that we will carry through in good faith and will not claim imaginary or fantastic interests in bad faith.

I should not want to contract with a nation from whom I had to accept assurances that in the future they would exercise good faith. The very fact that we do contract with them is an expression of our belief in their good faith. Surely the United States does not need to do that.

Mr. SHIPSTEAD. Mr. President, the piece of propaganda that the Senator from Pennsylvania [Mr. REED] has just called to the attention of the Senate is only a part of the vast flood of propaganda that is going through the mails to all the people in the United States.

I want to call the attention of the Senate again to the fact that it was very plainly brought out during the debate upon the resolution asking the United States to adhere to the protocol of signature to the instrument creating what was called the World Court of International Justice that questions leading to war are political in nature; and, therefore, will never be submitted to that court. That was admitted by some of the most able advocates of the proposition at the time.

Mr. FESS. Mr. President, will the Senator yield?

The PRESIDENT pro tempore. Does the Senator from Minnesota yield to the Senator from Ohio?

Mr. SHIPSTEAD. I do.

Mr. FESS. In consonance with what the Senator says about the propaganda, at first it appeared to be confined to the churches. Later on it was extended to teachers, to colleges. This morning I have three letters from various chambers of commerce. This is the first definite evidence I have had that the propaganda now is extending to business organizations. Most of it is just in general form, and I doubt whether the people who adopt these expressions read them.

Mr. SHIPSTEAD. I doubt it. I thank the Senator for calling that to my attention.

Mr. President, I have nothing but the kindliest feelings for people anywhere in the world who earnestly and sincerely try to do away with war. I am one of them; but I resent very much the idea of people captalizing the desire of humanity for peace and using it to carry on a swindle upon the American people.

These propagandists would have us believe that all of Europe is anxious and ready for peace, but can not have it because the United States does not adhere to the World Court. These people tell things that are not true; as, for instance, that adherence to the court is necessary to the outlawry of war.

The propaganda that the so-called World Court of International Justice is an instrument for peace, it seems to me, is nothing but a swindle, because, as a matter of fact, it has nothing to do with the question of peace. The question of outlawing war has been brought very clearly to our attention within the last few months, when in answer to the request of the Government of the United States to join with us in asking the larger powers of the world to sign a multilateral treaty to outlaw war, France replied that she could not ask other nations to join in signing such a treaty, because of her obligations under the League of Nations and other treaties to go to war.

If these people who spend so much on propaganda will tell the American people the truth, they shall find no objection from me to their propaganda. The desire for peace is too sacred to be wasted on a lie.

In view of what has been said here this morning, Mr. President, I ask that an editorial in the Washington Post of Monday, April 2, covering this subject, may be read at the desk at this time.

The PRESIDENT pro tempore. Without objection, the editorial will be read.

The Chief Clerk read as follows:

[From the Washington Post of Monday, April 2, 1928]

THE REFUSAL TO RENOUNCE WAR

Foreign Minister Briand's latest note in regard to Secretary Kellogg's proposal looking to the renunciation of war by the leading powers is a delightful example of old-style diplomacy, in which "no" is disguised under flattering language that seems to mean "yes."

American pacifists and amateur adjusters of world problems, who invariably think evil of their own Government and eagerly absorb foreign propaganda, are already hailing M. Briand's note as substantially accepting Mr. Kellogg's proposal. They think they see a treaty already in the making, by which all the great powers mutually agree to renounce war as between and among themselves. Therefore they resent the suggestion heretofore made that European powers are tied up in military alliances that forbid them from renouncing war. They do not perceive that M. Briand is caught in a net of his own weaving and is desperately trying to squirm away from his own proposal, made last spring for political purposes, and never intended to be made the basis for a genuine effort to abolish war.

M. Briand's note needs only a little analysis to be revealed as a defense of the existing military alliance system of Europe, under which France and other nations are unable to renounce war. They have bound themselves to utilize war as an instrument of policy. Mr. Kellogg's proposal strikes at the very heart of their military alliances. They can not accept his proposal. They do not wish to be exposed as hypocrites who profess to be anxious to disarm and to renounce war while actually increasing their armaments and making combines for waging war. Hence the elaborate embroidery of M. Briand's note. Strip it of its superfluous verbiage and its true intent is exposed.

Reduced to plain language, Mr. Briand's note states that France can not enter into an unconditional renunciation of war. If Mr. Kellogg insists upon such an agreement, "the French Government would hesitate to discuss longer the question." But if Mr. Kellogg will agree that the new treaty shall not supersede or interfere with the military alliance embodied in the League of Nations, or with special military alliances, or with treaties guaranteeing the neutrality of certain states, then France is willing to discuss the wording of the new treaty. M. Briand also endeavors to draw Mr. Kellogg into an assurance that the proposed renunciation of war would not deprive the powers of their right of "legitimate defense." In other words, M. Briand reserves the right, in agreeing to renounce war, to reject all disarmament plans. Fnally, he insists that a treaty to renounce war would not be effective unless it embraced all nations. Unless Russia were included, for example, it would be impossible for France to renounce war, as France is bound to defend Poland.

Thus it is evident that the cause of universal peace is not advanced by M. Briand's reply. The great powers will not agree with the United States to renounce war. They have already entered into a combination called the covenant of the League of Nations, which binds them to boycott, isolate, and make war on any nation that forces the issue by refusing to accept their dictation. In order to renounce war they would have to scrap the covenant. They do not dare to throw away their military alliances, open and secret, renounce war, and prove their good faith by disarming themselves.

Mr. WALSH of Massachusetts. Mr. President, I would like to ask the chairman of the Committee on Foreign Relations the status of the Gillett resolution.

Mr. BORAH. Mr. President, the Senator from Massachusetts [Mr. GILLETT] introduced his resolution some time ago, and the matter has been before the committee and has had consideration at length by the committee. While the committee has not made any report, I am of the opinion that it is the judgment of the committee that the resolution is not relevant to the court discussion at this time and its passage would not aid in bringing the matter to a conclusion.

Let me say that the Senate, as is well known, attached five reservations to the court protocol. Those reservations were not unacceptable to the foreign powers, with the exception of reservation 5. After the Senate had passed upon the protocol and attached the reservations they were sent to the President,

of course, and it became the duty of the President to transmit the protocol with the reservations to the foreign powers, and he did so. The language of article 5 is clear and not easily susceptible of being misunderstood. I do not think the delay is due to failure to understand the reservation, but it is due to a distinct unwillingness to accept the reservation without it is materially changed.

The result of the correspondence thus far is as follows: Those Governments which have accepted the reservations are Albania, Cuba, Greece, Liberia, and Luxembourg. Some ten nations have simply replied acknowledging receipt of the communication from the Government of the United States, but have made no comment. Twenty-three nations have replied, stating their objections to reservation 5. Those objections are objections based upon substantial differences of view. They clearly urge a modification of reservation 5.

The President has no power to modify the reservations. He has no power even to construe the reservations. He can only transmit to those Governments the result of the Senate's deliberation. That he has done.

The Gillett resolution proposes nothing more than to encourage the President to take up further discussion and further communication, with the view, possibly, of arriving at an understanding with these powers as to the meaning of reservation 5. But the President has no power to place any construction upon the reservation. I take it the President is to be the judge of the propriety and the nature of his communication. At any rate, it is an executive matter. The Senate has acted and advised the President; the presentation of the protocol with the reservations is peculiarly a function of the Executive. It is known that he is interested in the subject, and I must assume that he will in good faith do all that he is empowered to do.

If those who desire to make progress and wish to have a finality, will bring the protocol and the reservations back to the Senate, and the Senate will make these modifications to reservation 5 we can accomplish something. But the President can make no changes and no modifications and, in my opinion, the only thing to do, if Senators are of the opinion that reservation 5 ought to be modified, is to assume the responsibility as a Senate, and consider and discuss and pass upon that question.

My own judgment is there is no one on the committee who belives in the modification of reservation 5. My further judgment is that there are, perhaps, none in the Senate who believe in the modification of reservation 5.

We have arrived at the point where the foreign governments must either accept reservation 5, or the Senate of the United States must recede from its position, an altogether improbable thing.

Mr. WALSH of Massachusetts. Mr. President, is there any such resolution pending?

Mr. BORAH. No; no such resolution is pending.

Mr. FLETCHER and Mr. REED of Pennsylvania addressed the Chair.

The PRESIDENT pro tempore. Does the Senator from Idaho yield; and if so, to whom?

Mr. BORAH. I yield to the Senator from Florida first.

Mr. FLETCHER. The only question in my mind was this: The signatory states, in submitting their replies, referred to "such further exchange of views as the Government of the United States may deem useful." Of course, if there is a fundamental difference, and the replies exclude any other view than that we were to recede from reservation 5, I can see that this was a mere formal objection, but if there were calls for some explanation or some clarification of the language used in reservation 5, it might open the door. These replies may make offers of a further exchange of views.

Mr. BORAH. Of course, diplomacy always indulges in language of that kind, but the fact is that a reading of the replies of these 23 nations discloses that they understand perfectly what reservation 5 means, that they are not at all in doubt as to its meaning, and that they are unable to accept it as it is.

Mr. REED of Pennsylvania. Mr. President, it was suggested not long ago that their real objection to reservation 5 was an apprehension that the United States would claim an interest in questions on which an advisory opinion was contemplated, that the action of the United States would not be in good faith, and that the interest claimed would be a fantastic interest. Was any such thought as that indicated by any of the 23 nations?

Mr. BORAH. No; no such thought as that was indicated in the correspondence that I can now recall. Let me say, further, these 23 nations which replied in the way of objection to reservation 5 have the right to object to an advisory opinion without assigning any reason. They have the power to object for no reason or for any reason which they may assign.

The United States has not claimed that right. Reservation 5 does not place the United States upon an equality with those powers. The United States claims the right when it has an interest, or when it claims an interest. Certainly the foreign powers can not object on the ground that the United States might claim an interest when they did not have any, when those powers may object without assigning as a basis for the objection even a claim of interest.

Mr. WALSH of Massachusetts. Mr. President, will the Senator yield?

Mr. BORAH. I yield.

Mr. WALSH of Massachusetts. As I understand the Senator's position, if action is really desired, the President should ask the Senate to modify its position on reservation 5, or the Senate itself should notify the President that it has changed its position.

Mr. BORAH. Yes; that is the only way action can be had, unless the foreign governments accept reservation 5. So far as I am individually concerned, expressing my view and not the view of the committee, I would support a resolution, if anybody wanted to introduce one, to bring the protocol and reservation 5 back to the Senate to ascertain the views of the Senate as to modification. I should not hesitate a moment to have that matter reopened before the Senate, and I should not hesitate to have it reopened before the country. Some people seem to think that the United States by reservation 5 has claimed an advantage which the foreign powers have not. As a matter of fact, reservation 5 is a modest contention compared with the power which the foreign governments have with reference to this court and with reference to advisory opinions.

Mr. KING. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Idaho yield to the Senator from Utah?

Mr. BORAH. I yield.

Mr. KING. I think the Senator from Idaho was not in the Chamber a moment ago when I propounded a question to the Senator from Pennsylvania. I suggested to him, inferentially, if not directly, that my understanding was that a number of the signatories to the protocol were somewhat apprehensive as to the interpretation which would be placed by the United States on the words "has or claims to have an interest." I recollect seeing some newspaper comments upon this matter, and they did express the view that some of the signatories to the protocol were not sure that we would claim, as lawyers would express it, a juridical interest, that if we had a real interest, such a lawyers understand an interest to be, there was no objection whatever to the reservation.

I suggested then that I thought that the Senate could initiate such proceedings as would enable us to clarify that reservation, so that any valid misapprehension might be removed from the minds of any of the signatories to the protocol.

I agree with the Senator that, interpreting the resolution as I do, it means only that we must have a valid, a real interest; such an interest as would justify a litigant in bringing action in court, and that without such an interest, the United States would have no right to interpose to prevent the court from giving opinions.

Mr. WATSON. Mr. President, has any one of these 23 nations asked to have reservation 5 clarified?

Mr. BORAH. Mr. President, as I construe their letter, they have not, but I am perfectly aware that there is language in their communication which, taken alone and lifted out of its context, could very easily be construed in that light. In my opinion these Governments have plainly stated that reservation 5 must be substantially modified before it can be accepted.

Mr. BLAINE. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Idaho yield to the Senator from Wisconsin?

Mr. BORAH. I yield to the Senator.

Mr. BLAINE. Only for the purpose of seeking information I desire to ask the Senator his opinion with respect to this question. Within what time may the 23 nations, which have rejected the fifth reservation, change their position and accept it?

Mr. BORAH. There is no limit as to time. The Senator from South Carolina [Mr. BLEASE] has introduced a resolution, which is before my committee, that might put a limit on the time, but there was no limit on the reservation.

Mr. BLAINE. If the United States desires to withdraw entirely from consideration of the World Court question, is a joint resolution necessary to withdraw the adherence of the United States to the World Court with reservations?

Mr. BORAH. Yes. As the matter now stands, if the foreign nations are willing to accept the reservations, the matter would be closed. The only way we could avoid that would be, in my judgment, by specific action. I know of no effective way to do it except to recall the protocol from the President, and I

do not know how we would view the request. Then we could, even if it were accepted, abrogate the treaty.

Mr. President, before I recur further to my own views about the matter, I want to read a paragraph from an article by the senior Senator from Montana [Mr. WALSH]. That Senator, as we all know, was one of the most earnest and able advocates of our adherence to the protocol of the court, but in discussing reservation 5 over which the controversy arises, he lately said in an article:

> That reservation represents simply an attempt to put this Nation on a footing of substantial equality with every other having permanent representation on the council, any one of which may, at will, veto such a request, a right which arises from the requirement of unanimity on any question before it save matters of mere procedure. If Great Britain or France or Italy finds that it will be in any wise embarrassed by any decision that may be made pursuant to a request from the council, it may forestall an opinion by voting in that body against submitting the question. It would scarcely comport with the dignity of the United States to join in upholding the court except upon a basis of equality with every other leading power. It is easy to conceive of questions which the United States would not care to have submitted to the court for determination, just as it is not difficult to frame inquiries which some other great nations would not care to have answered. Any of the other great powers may say nay—assuming unanimity to be required, never questioned until after the Senate acted—why should not the United States?

Mr. SWANSON. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Idaho yield to the Senator from Virginia?

Mr. BORAH. I yield.

Mr. SWANSON. Reservation 5 goes further than simply trying to obtain equality as members of the council of the League of Nations. The whole basis of the court is that no nation may be haled before it without its consent, either for an advisory opinion or a judgment. The court decided that in the East Carelian case. Forty-eighth nations that have joined the league in an article which they signed, I think article 14, agreed that the council and the assembly shall be their agents to give assent or dissent for them as to whether an advisory opinion should be asked or not asked. That article was included in the covenant when they joined the league, and the members selected this agency to act for them when they joined. The members of the league have done that. Consequently their assent is given by the council or the assembly.

The question was presented to us, How can we be on an equality before that court? We could not select the assembly or the council of the league to be our agents and to represent us. We have to act independently. All that reservation 5 does is to give the United States the same right to assent or dissent that the other nations have through their representatives, the council or the assembly. They have chosen either of those to act as agents for them. This is the only formula by which the United States could be put on an equality and have its consent or its dissent expressed for an advisory opinion.

The 48 nations give their assent how? By and through the agents they selected when they joined the league. They consented to that arrangement. We simply ask the right as principals to have the same right that their agent possesses in connection with advisory opinions.

Mr. BORAH. It ought to be remembered, too, that that agency can be withdrawn at any time.

Mr. SWANSON. Which agency?

Mr. BORAH. The plan of making the council their agent can be withdrawn at any time.

Mr. SWANSON. Yes; at any time, and if the members of the league desire to have each individual member give assent or dissent, to act for itself, that could be accomplished by amending the covenant of the league if they saw proper to do so. If they consent to have their agent express their assent or dissent for them and we can not select that agency unless we are members of the league, the only way we could be on an equality would be to have the same right that their agent possesses for them. The East Carelian case, decided when Russia was not a party and challenged the right of the court to act, as she had not given her consent for the expression of an advisory opinion, was decided by a majority of the court holding that no nation could have an advisory opinion or judgment rendered against it without its consent.

That is all that reservation 5 does for us. It requires the consent of the United States. When this opinion went back to the league, instead of acquiescing in the opinion they appointed a committee of the council of the league to pass upon the judgment of the court rendered in the East Carelian case. That committee reported back that the court must render its opinion whenever asked by the council or the assembly, whether any other nation consented or not. When it came up for determination in the council it was postponed, as I understand it, and never has been passed on by the council. When that occurred, those of us who felt that the United States ought to be on terms of equality in the court with every other nation, thought seriously from day to day for a long time about how to accomplish this, and reservation 5 was formulated and is intended to carry into effect and make effective, so far as the United States is concerned, the decision reached by the court in the East Carelian case.

As the Senator from Idaho has well said, we are not on an equality. We have to say and we are in honor bound to state that we have an interest in a case.

Mr. BORAH. Or claim an interest.

Mr. SWANSON. Yes; or claim an interest. We are in honor and in good conscience and fair dealing bound to say that we have an interest and claim such interest. Consequently we are in honor bound, where we have a substantial interest, to so state it and then the court has not jurisdiction without our consent. If we should leave it to the court to determine our interest, we would not be on terms of equality with nations who are members of the league.

The court does not determine whether a member of the council of other nations objects finally to an opinion. That is determined by them for themselves. They veto it in council, where it is required to be unanimous. Consequently the only way we could be on terms of equality and assert the claim effectively would be to put in that language which was included and agreed on by the various friends of the court when they met, and also by the administration, as being proper to make effective the decision in the East Carelian case.

If it is determined that the council require unanimous consent before it can ask an advisory opinion, then the other nations have no objection to reservation 5, but whether they decide that it takes a majority vote or unanimous vote, I insist that we still could only give our consent by this method to be on terms of equality with other nations, because their agent, whether it acts by majority vote or unanimous vote, can not be accepted by us as our agent, and that is a question for us to determine as principals for ourselves. It is not for the members of the league to determine for us. All we ask is to be put on an equality, to give our assent or dissent precisely with the same authority that as the agent the council possess for the members of the league under the covenant. Reservation 5 was drawn with that object in view. I have been unable to find any other way to establish an equality. The United States should not enter except under terms of equality. If the members of the league desire for each nation constituting the league to have this power, they can accomplish this by amending the covenant of the league and let each nation give assent individually and not through an agency of the council. We certainly could not offer properly amendments to the covenant of the league of which we were not a member.

The only place where I think the Gillett resolution would be effective is this: I do not think the Senate would consent to change the reservation, but it will be noted in the reply of the other nations that they invite further correspondence. It was not final.

Mr. BORAH. It was not final in the language. There is no question——

Mr. SWANSON. It seems to me that the administration should have taken some further steps in the matter. I do not believe in finally concluding the matter without sending a reply when a reply was requested. I understand the object of the Gillett resolution is not to change the reservation. The Senator from Massachusetts [Mr. GILLETT] says so himself, and says that it is merely intended to ask the administration to take the matter up, accept the invitation, and see if we can not induce the other nations to accept the reservation contained in our resolution of adherence to the protocol of the World Court.

Mr. WALSH of Massachusetts. Could that be done without a resolution?

Mr. SWANSON. It could be done without a resolution. The administration has not been as active and as energetic and as enthusiastic as it ought to have been in this matter, and the resolution indicates it is desirous of making it move faster and more earnestly. I understand this as the object sought to be accomplished by the Gillett resolution.

Mr. BORAH. The peculiar thing to me is, if it is simply desired to stir up the President, why they do not write to the President direct.

Mr. SWANSON. A resolution could be adopted by the Senate to that effect. We could do it in that way.

Mr. BORAH. Of course the Senate has nothing in the world to do with the correspondence of the President of the United States with foreign powers.

Mr. SWANSON. But the Senator has introduced a resolution suggesting to the President action about the recognition of Russia. Why is that more important than our getting into the World Court? The Senator makes a suggestion to the President. Is it treason for the Senator from Massachusetts [Mr. GILLETT] and a patriotic duty for the Senator from Idaho to pursue the same course and make similar suggestions to the President?

Mr. BORAH. If I should have succeeded in having my resolution passed providing for the recognition of Russia, I should not have followed it up by telling the President what kind of a letter to write. I should have assumed that the President of the United States would be competent to write the kind of a communication which should go from one government to another, and in proper form and style. The difference between the instance which the Senator cites and this is that the Senate in this instance has acted, the Senate has advised and the sole duty left is that of communicating with foreign governments—that is peculiarly the duty of the President.

Mr. SWANSON. The Gillett resolution does not suggest anything with reference to style, as the Senator states. It simply suggests to the President that he shall respond to the request of the other nations for further communication.

Mr. BORAH. It assumes that the President is unable to construe in the proper light the letters which he has received.

Mr. SWANSON. No; they suggest to him, not as the Senator suggested to him, to see what he can do about the matter. I do not see any difference in now making a suggestion to the President that the Senate would be pleased if he took certain action. If the President could induce these people to accept the reservations, then we could enter the World Court. The Senator would be pleased if the President, by his diplomacy, could arrange for the recognition of Russia.

Mr. BORAH. Mr. President, in my opinion this way of approaching the question is not very dignified upon the part of the Senate. If the Senator from Virginia or anyone else wants to introduce a resolution asking the sense of the Senate as to whether it will modify reservation 5, we can reach the question then as to whether the position of the United States is open to construction. Unless it is, the mere formality of passing the reservation in the protocol from the President to the other powers is something it seems to me we can leave to the discretion of the President.

Mr. SWANSON. The Senate is in no condition to negotiate any communication with foreign powers.

Mr. BORAH. I am not asking for any negotiation.

Mr. SWANSON. If the President is to change these reservations and in his conscience and good judgment thinks we ought to do it, it is his duty to send them to the Senate for approval.

Mr. BORAH. If the Senator from Virginia wants to change them, he should seek to have them returned to the only body which can change them.

Mr. SWANSON. If I wanted to change them, I would adopt such a course as that; and if they were returned and they did not agree with the President's conception, then we could not get anywhere. The question whether we will adhere to the protocol even as agreed to by the Senate is finally left to the President. He can refuse to consent even if the Senate should reach a favorable decision. The matter is left finally and absolutely to him under our Constitution.

Mr. BORAH. But he has delivered it to all of them.

Mr. SWANSON. He has delivered it to all of them, but they have not accepted it; it has been in his hands up to the present time. I do not see why it is treason to make the suggestions to the President in the one case and to waive them in the other.

Mr. BLEASE. Mr. President——

The PRESIDING OFFICER (Mr. FESS in the chair). Does the Senator from Idaho yield to the Senator from South Carolina?

Mr. BORAH. I yield.

Mr. BLEASE. Does not the Senator think if the Republican Party does not renominate Mr. Coolidge that we shall have a chance to have another President consider this subject about as quickly as we could get the resolution relating to it adopted by the Senate?

Mr. BORAH. Mr. President, it is too early in the week to get into the question of the presidential nomination; but, in all seriousness, anyone who will read the letter of the 23 nations, in answer to the President's communication, will immediately conclude that those powers understand perfectly the meaning of reservation 5, and their suggestions imply substantial changes in reservation 5. The President has no power to make such changes; we alone have that power. I will join with the Senator from Virginia [Mr. SWANSON] or with any other Senator in bringing the question back to the Senate for the purpose of getting its views upon it. Indeed I should like to bring this matter to a conclusion. I have read these replies of the foreign governments and I have no doubt as to what they mean. They understand reservation 5, understand it perfectly, and they urge a modification. Now, are we willing to modify it? If not, I see nothing that we can do with propriety or effect.

THE CALENDAR

The PRESIDING OFFICER. The calendar, under Rule VIII, is in order. The clerk will report the first bill on the calendar.

The bill (S. 1182) to provide for the naming of certain highways through State and Federal cooperation, and for other purposes, was announced as first in order.

Mr. BLAINE. I ask that that bill go over.

The PRESIDING OFFICER. The bill will go over.

The bill (S. 1285) to provide for the further development of agricultural extension work between the agricultural colleges of the several States receiving the benefits of the act entitled "An act donating public lands to the several States and Territories which many provide colleges for the benefit of agriculture and the mechanic arts," approved July 2, 1862, and all acts supplementary thereto, and the United States Department of Agriculture, was announced as next in order.

Mr. CAPPER. Mr. President, I ask that that bill be temporarily passed over on account of the absence from the Chamber of the Senator from Delaware [Mr. BAYARD].

The PRESIDING OFFICER. The bill will be passed over.

The bill (S. 2447) for the relief of the stockholders of the First National Bank of Newton, Mass., was announced as next in order.

Mr. BRATTON. I ask that the bill go over.

The PRESIDING OFFICER. The bill will be passed over.

PORTER BROS. & BIFFLE

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. 1476) for the relief of Porter Bros. & Biffle and certain other citizens, which was read, as follows:

Be it enacted, etc., That Porter Bros. & Biffle, a copartnership composed of H. L. Porter, N. A. Porter, and J. W. Biffle; Spradling & Porter Bros., a copartnership composed of Royal Spradling, H. L. Porter, and N. A. Porter; Henry Price, Royal Spradling, J. L. Keith, W. T. Brummett; Price & Florence, a copartnership composed of Henry Price and Buster Florence; and G. J. Keith, any statutes of limitations being waived, are hereby authorized to enter suit in the United States District Court for the Eastern District of Oklahoma for the amount due or claimed to be due to said claimants from the United States by reason of the alleged neglect of the Government officials in the dipping of tick-infested cattle dipped in Texas under the direction of and by the inspectors of the United States Bureau of Animal Industry, Department of Agriculture, and erroneously certified by the inspectors of said bureau as being clean of Texas-fever ticks and shipped to Oklahoma in the year 1919.

SEC. 2. Jurisdiction is hereby conferred upon said United States District Court for the Eastern District of Oklahoma to hear and determine all such claims. The action in said court may be presented by a single petition making the United States party defendant, and all of said Government officials whose alleged negligence resulted in the loss of said animals, and shall set forth all the facts upon which the claimants base their claims, and the petition may be verified by the agent or attorney of said claimants. Official letters, reports, and public records, or certified copies thereof, may be used as evidence. Nothing contained in this or the preceding paragraph shall be construed as waiving any defense against such demands, or any of them, existing prior to the approval of this act, except that the Government of the United States hereby waives its immunity from suit thereon, and the statute of limitations, if applicable to said demands or claims, are hereby waived; but every other legal or equitable defense against such demands, or any of them, shall be available to the United States and shall be considered by the court; and the United States of America shall have all rights of review by appeal or writ of error or other remedy as in similar cases between private persons or corporations.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

JOSEPHINE DOXEY

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. 2524) for the relief of Josephine Doxey, which was read, as follows:

Be it enacted, etc., That the United States Employees' Compensation Commission is authorized and directed to pay to Josephine Doxey, a

former employee of the Treasury Department (Bureau of Engraving and Printing), the sum of $50 per month, this compensation to commence from and after the date of the passage of this act.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

BILLS AND RESOLUTION PASSED OVER

The bill (S. 61) granting an increase of pension to Louise A. Wood was announced as next in order.

Mr. SMOOT. Let that bill go over.

The PRESIDING OFFICER. The bill will be passed over.

The bill (S. 1271) to more effectively meet the obligations of the United States under the migratory-bird treaty with Great Britain by lessening the dangers threatening migratory game birds from drainage and other causes, by the acquisition of areas of land and of water to furnish in perpetuity reservations for the adequate protection of such birds, and by providing funds for the establishment of such areas, their maintenance and improvement, and for other purposes, was announced as next in order.

Mr. BLEASE. Let that bill go over.

The PRESIDING OFFICER. The bill will be passed over.

The bill (S. 2720) for the relief of David McD. Shearer was announced as next in order.

Mr. SMOOT. Let that bill go over.

The PRESIDING OFFICER. The bill will be passed over.

The resolution (S. Res. 109) creating a committee of the Senate to investigate the sinking of the submarine *S–4* was announced as next in order.

Mr. REED of Pennsylvania. Let that go over.

The PRESIDING OFFICER. The resolution will be passed over.

The bill (S. 1939) granting pensions and increase of pensions to widows and former widows of certain soldiers, sailors, and marines of the Civil War, and for other purposes, was announced as next in order.

Mr. KING. Let that bill be passed over temporarily.

The PRESIDING OFFICER. The bill will be passed over temporarily on the suggestion of the Senator from Utah.

SEGREGATION OF PASSENGERS ON STREET CARS

The bill (S. 781) requiring separate accommodations for white and colored passengers on street cars in the District of Columbia was announced as next in order.

Mr. BLEASE. Mr. President, I do not think there is any Senator here especially anxious to vote on that bill until after the general election.

Mr. WALSH of Massachusetts. To which bill does the Senator from South Carolina refer?

Mr. BLEASE. To Senate bill 781, relating to the segregation of passengers on street cars in the District. I think both sides of the Chamber would like to have it go over until they find out how the delegates are going to vote. Therefore, I move that the bill be taken from the calendar and placed under the head of "Subjects on the table."

Mr. SMOOT. Mr. President, let me suggest to the Senator from South Carolina that the proper course to pursue, in my opinion, would be to let the bill go to the calendar under Rule IX.

Mr. BLEASE. Let it lie on the table and go over until the next session.

Mr. SMOOT. I suggest to the Senator from South Carolina unless he desires that the bill shall be postponed indefinitely to request that it be placed on the calendar under Rule IX.

Mr. BLEASE. I accept the suggestion of the Senator from Utah, and I make that motion.

The PRESIDING OFFICER. The question is on the motion of the Senator from South Carolina.

The motion was agreed to.

LE ROY K. PEMBERTON AND OTHERS

The bill (S. 132) to authorize the President to appoint Le Roy K. Pemberton a first lieutenant, Officers' Reserve Corps, United States Army, was announced as next in order.

Mr. SHORTRIDGE. Mr. President, there are four bills on the calendar somewhat similar in character which have been adversely reported. I ask once more that they go over. I do not desire to have them indefinitely postponed.

The PRESIDING OFFICER. The bills referred to by the Senator from California will go over.

The bill (S. 2053) to establish a military record for Daniel P. Tafe was announced as next in order.

The PRESIDING OFFICER. At the request of the Senator from California [Mr. SHORTRIDGE], the bill will be passed over.

CHARLES CAUDWELL

The bill (S. 1736) for the relief of Charles Caudwell was announced as next in order.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

Mr. JONES. Mr. President, let us have a brief explanation of the bill.

Mr. BLACK. Mr. President, this is a bill that was introduced by the junior Senator from Nebraska [Mr. HOWELL], the chairman of the Committee on Claims, at the request of the War Department. Immediately after the World War the commanding general in England sold some material to Mr. Caudwell. The material was never delivered but Mr. Caudwell paid the Government the money. The Government has had his money now for about 10 years. The bill does not even provide for the payment of interest; it is simply a bill to repay Mr. Caudwell the money which he paid for articles which he never received. That is the whole effect of the bill. The War Department has requested that it be passed.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which had been reported from the Committee on Claims with amendments, in line 4, after the words "directed to," to strike out the words "settle the claim of" and to insert the words "pay to"; and in line 5, after the name "England," to strike out the word "in" and insert "from any moneys in the Treasury not otherwise appropriated," so as to make the bill read:

Be it enacted, etc., That the Comptroller General of the United States be, and he is hereby, authorized and directed to pay to Charles Caudwell, Congleton, Cheshire, England, from any moneys in the Treasury not otherwise appropriated, the sum of $10,219.65, or so much thereof as may be required to purchase exchange not to exceed the amount of £2,100, in full settlement of all claims of said Charles Caudwell growing out of his purchase of ovens at London, England, in June and July, 1919.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

BILLS PASSED OVER

The bill (S. 141) for the relief of Felix Medler was announced as next in order.

The PRESIDING OFFICER. The bill will be passed over on the request of the Senator from California [Mr. SHORTRIDGE].

The bill (S. 2787) providing for the appointment of governors of the non-Christian Provinces in the Philippine Islands by the Governor General without the consent of the Philippine Senate was announced as next in order.

Mr. KING. Let that bill go over.

The PRESIDING OFFICER. The bill will be passed over.

CHARLES A. BLACK

The bill (H. R. 3315) for the relief of Charles A. Black, alias Angus Black, was considered as in Committee of the Whole and was read, as follows:

Be it enacted, etc., That in the administration of any laws conferring rights, privileges, and benefits upon honorably discharged soldiers, Charles A. Black, alias Angus Black, who was a member of Company B, Eleventh Massachusetts Volunteer Infantry, shall hereafter be held and considered to have been discharged honorably from the military service of the United States as a private of that organization on the 17th day of August, 1861: *Provided*, That no bounty, back pay, pension, or allowances shall be held to have accrued prior to the passage of this act.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

WALTER W. JOHNSTON

The bill (S. 2711) for the relief of Walter W. Johnston was announced as next in order.

Mr. SMOOT. Mr. President, when this bill came up previously for consideration on the call of the calendar I objected to it. Since the bill was reached on that occasion I have gone into the question involved pretty carefully, and find there is a moral obligation, at least, on the part of the Government for the amount stated. Therefore, I shall make no further objection to the bill.

The PRESIDING OFFICER. Is there objection to the consideration of the bill?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which was read, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to Walter W. Johnston, out of any money in the Treasury not otherwise appropriated, the sum of $15,000, as full compensation to him, the said Walter W. Johnston, for personal services rendered and the use of appliances personally owned and operated by him in connection with the launching of the ships at the shipyards of the fourth district during the year 1918, said work being done by order of and under the direction of the district supervisor of the United States Shipping Board Emergency Fleet Corporation, and for which the claimant has not been compensated, as was provided in an agreement entered into by him with the said district supervisor.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

PROHIBITION OF WAR

The joint resolution (S. J. Res. 1) proposing an amendment to the Constitution of the United States prohibiting war was announced as next in order.

The joint resolution had been reported from the Committee on the Judiciary adversely.

Mr. JONES. The Senator from North Dakota [Mr. FRAZIER] is not at present in the Chamber. I do not know whether he desires that the joint resolution should remain on the calendar or not. It has been kept there for some time, and, I think, probably at his request. In his absence, I ask that it may remain on the calendar.

The PRESIDING OFFICER. Without objection, the joint resolution will retain its place on the calendar.

KENNETH B. TURNER

The bill (S. 133) for the relief of Kenneth B. Turner was announced as next in order.

The PRESIDING OFFICER. At the request of the Senator from California [Mr. SHORTRIDGE] the bill will be passed over.

NORTHERN JUDICIAL DISTRICT OF OKLAHOMA

The bill (H. R. 7011) to detach Okfuskee County from the northern judicial district of the State of Oklahoma and attach the same to the eastern judicial district of the said State was announced as next in order.

Mr. BLAINE. I ask that the bill go over.

The PRESIDING OFFICER. The bill will be passed over.

STANDARDIZATION OF HAMPERS, ETC.

The bill (H. R. 2148) to fix standards for hampers, round stave baskets, and splint baskets for fruits and vegetables, and for other purposes, was announced as next in order.

Mr. McNARY. Mr. Presdent, I think there is no opposition to the passage of the bill, since I have met by the acceptance of amendments every requirement which has been suggested, but I promised the Senator from North Carolina [Mr. SIMMONS] that I would not permit the bill to be called up in his absence, and if I may have it passed over until he returns to the floor I shall appreciate it.

The PRESIDING OFFICER. The bill will be passed over.

CROP INSURANCE

The bill (S. 2149) authorizing and directing the Secretary of Agriculture to investigate all phases of crop insurance was announced as next in order.

Mr. McNARY. For reasons that are satisfactory to myself I ask that the bill go over without prejudice.

The PRESIDING OFFICER. The bill will be passed over without prejudice.

HORTICULTURAL EXPERIMENTS IN SOUTHERN GREAT PLAINS AREA

The bill (S. 2832) providing for horticultural experiment and demonstration work in the southern Great Plains area was announced as next in order.

Mr. PINE. Mr. President, I ask that House bill 405, being Calendar No. 716, be substituted for the bill the title of which has just been stated.

The PRESIDING OFFICER. Is there objection to the consideration of the bill?

Mr. SMOOT. I should like to ask the Senator from Oklahoma whether there has been any change in the House bill as compared with the provisions of the Senate bill which is now on the calendar?

Mr. PINE. There has been no change whatever.

Mr. SMOOT. The two bills are the same?

Mr. PINE. They are both on the calendar.

Mr. SMOOT. Yes; I am aware of that.

Mr. PINE. And are exactly the same.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Oklahoma that Order of Business 716, being House bill 405, be substituted for Senate bill 2832? The Chair hears none, and it is so ordered.

The Senate, as in Committee on the Whole, proceeded to consider the bill (H. R. 405) providing for horticultural experiment and demonstration work in the southern Great Plains area, which was read, as follows:

Be it enacted, etc., That the Secretary of Agriculture is hereby authorized and directed to cause such shade, ornamental, fruit, and shelter belt trees, shrubs, and vines as are adapted to the conditions and needs of the southern Great Plains area, comprised of those parts of the States of Colorado, Nebraska, Kansas, Texas, Oklahoma, and New Mexico lying west of the ninety-eighth meridian and east of the 5,000-foot contour line, to be propagated at one of the existing field stations of the Department of Agriculture in such area, and seedlings and cuttings and seeds of such trees, shrubs, and vines to be distributed free of charge under such regulations as he may prescribe for experimental and demonstration purposes within such area.

SEC. 2. That for carrying out the purposes of this act, including purchase of land and erection of buildings, there is hereby authorized to be appropriated the sum of $35,000, out of any money in the Treasury not otherwise appropriated, to be expended under the supervision of the Secretary of Agriculture.

SEC. 3. That there is hereby authorized to be appropriated each fiscal year thereafter necessary appropriations to enable the Secretary of Agriculture to carry on the experiments contemplated by this act.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

The PRESIDING OFFICER. Without objection, Senate bill 2832 will be indefinitely postponed.

DECORATIONS FOR OFFICERS OF NAVY AND MARINE CORPS

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. 5898) to authorize certain officers of the United States Navy and Marine Corps to accept such decorations, orders, and medals as have been tendered them by foreign governments in appreciation of services rendered.

The bill had been reported from the Committee on Naval Affairs with amendments.

The PRESIDING OFFICER. The amendments reported by the committee have heretofore been agreed to.

Mr. BLEASE. Mr. President, I have heretofore presented an amendment to the bill, which I should like to have considered at this time.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. On page 4, line 21, it is proposed to insert the following:

That all recommendations for decoration by the United States of America now pending before the War Department, Navy Department, or Marine Corps for services rendered during the World War be considered by the proper boards or authorities, and awards made in such cases as the conduct of those recommended shows them to be entitled and deserving of the same.

The amendment was agreed to.

Mr. TYDINGS. On page 2, line 1, after the name "Dayton," I move to insert the name "Rear Admiral Louis M. Nulton."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

FEDERAL AID TO RURAL POST ROADS

The bill (S. 2327) to amend the act entitled "An act to provide that the United States shall aid the States in the construction of rural post roads, and for other purposes," approved July 11, 1916, as amended and supplemented, and for other purposes, was announced as next in order.

Mr PHIPPS. Mr. President, I think several Senators who are not now present are interested in the bill. I, therefore, ask that it go over without prejudice.

The PRESIDING OFFICER. The bill will go over without prejudice on the request of the Senator from Colorado.

INTERSTATE COMMERCE IN COTTONSEED OIL

The bill (S. 1414) for the prevention and removal of obstructions and burdens upon interstate commerce in cottonseed oil by regulating transactions on future exchanges, and for other purposes, was announced as next in order.

Mr. COPELAND. Mr. President, it will be recalled that we are to have a hearing on that bill before the Agricultural Committee on Wednesday of this week. I, therefore, ask that it go over.

The PRESIDING OFFICER. The bill will be passed over.

BILLS PASSED OVER

The bill (S. 1728) placing service postmasters in the classified service was announced as next in order.

Mr. BLEASE. I ask that that go over.

The PRESIDING OFFICER. The bill will be passed over.

The bill (S. 1940) to divest goods, wares, and merchandise manufactured, produced, or mined by convicts or prisoners of their interstate character in certain cases was announced as next in order.

Mr. BLEASE. I ask that that bill go over.

The PRESIDING OFFICER. The bill will be passed over.

The bill (S. 1462) for the adoption of the Columbia Basin reclamation project, and for other purposes, was announced as next in order.

Mr. SMOOT. Let that bill go over.

The PRESIDING OFFICER. The bill will be passed over.

The bill (S. 1266) to create in the Bureau of Labor Statistics of the Department of Labor a Division of Safety was announced as next in order.

Mr. BINGHAM. I ask that that bill go over.

The PRESIDING OFFICER. The bill will be passed over.

LEVI R. WHITTED

The bill (S. 1956) for the relief of Levi R. Whitted was considered as in Committee of the Whole. The bill had been reported from the Committee on Claims with amendments.

The PRESIDING OFFICER. The bill was considered on March 23 and the amendments were agreed to at that time.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

OFFICE OF GOVERNOR GENERAL OF THE PHILIPPINE ISLANDS

The bill (S. 2292) providing for the employment of certain civilian assistants in the office of the Governor General of the Philippine Islands, and fixing salaries of certain officials, was announced as next in order.

Mr. BINGHAM. In view of the fact that the senior Senator from Wisconsin [Mr. LA FOLLETTE], who is very much interested in this bill and desires to be heard in opposition to it, is not present in the Chamber, I ask that it go over.

The PRESIDING OFFICER. The bill will be passed over.

MATERIAL FOR MILITARY AND NAVAL USE

The bill (S. 1831) to authorize the Secretary of War and the Secretary of the Navy to class as secret certain material, apparatus, or equipment for military and naval use, and for other purposes, was considered as in Committee of the Whole. The bill had been reported from the Committee on Military Affairs with amendments, on page 1, line 3, after the word "That," to strike out "in addition to authority heretofore granted, the Secretary of War and the Secretary of the Navy are," and insert "The President is"; in line 5, after the word "in," to strike out "their" and insert "his"; and on page 2, line 14, after the word "the," to strike out "Secretary of War or the Secretary of the Navy" and insert "President," so as to make the bill read:

Be it enacted, etc., That the President is empowered, in his discretion, to class as secret or confidential any material, apparatus, or equipment for military or naval use which is of such nature that the interests of the public service would be injured by publicly divulging information concerning them, and may authorize purchases and award contracts for the development, manufacture, or procurement thereof without public advertisement for bids or notice to the trade: *Provided*, That such purchases and contracts shall not be made or awarded except under circumstances where it shall be impracticable to develop, manufacture, or procure such material, apparatus, or equipment in Government establishments: *Provided further*, That when such material, apparatus, or equipment has been classed as secret or confidential the head of any Government department, establishment, or agency shall take proper measures to maintain the secret or confidential nature thereof and of the contracts and pertinent paper relating thereto: *And provided further*, That the decision of the President as to what material, apparatus, or equipment shall be classed as secret or confidential, and as to whether or not it is practicable to develop, manufacture, or procure such material, apparatus, or equipment in Government establishments shall be final and conclusive.

The amendments were agreed to.

Mr. BLAINE. I did not wish to object until the amendments were considered. I now ask that the bill may go over.

The PRESIDING OFFICER. The bill will be passed over.

AMENDMENT OF NATIONAL DEFENSE ACT

The bill (S. 1838) to amend section 110 of the national defense act by repealing and striking therefrom certain provisions prescribing additional qualifications for National Guard State staff officers, and for other purposes, was announced as next in order.

Mr. REED of Pennsylvania. Mr. President, the House has passed House bill 239, of almost the same tenor, and exactly the same effect. I move that that bill be substituted for Senate bill 1838.

The PRESIDING OFFICER. What is the number of the bill?

Mr. REED of Pennsylvania. House bill 239. It is not now on the calendar.

The PRESIDING OFFICER. Without objection, the Committee on Military Affairs is discharged from the further consideration of the House bill.

Mr. BLAINE. Mr. President, I have no objection to the substitution of the House bill, but I ask that it go over.

Mr. REED of Pennsylvania. That is, after the substitution is made?

Mr. BLAINE. Yes.

The PRESIDING OFFICER. Without objection, the House bill will be substituted for the Senate bill.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. 239) to amend section 110 of the national defense act by repealing and striking therefrom certain provisions prescribing additional qualifications for National Guard State staff officers, and for other purposes.

The PRESIDING OFFICER. The bill will be passed over.

BILLS PASSED OVER

The bill (S. 3092) to enable the George Washington Bicentennial Commission to carry out and give effect to certain approved plans was anounced as next in order.

Mr. KING. Mr. President, I have some amendments to propose to that bill, and I think by consultation with the distinguished Senator from Ohio we can arrive at an understanding with regard to them.

The PRESIDING OFFICER. The bill will be passed over.

The bill (S. 759) to give the Supreme Court of the United States authority to make and publish rules in common-law actions was announced as next in order.

The PRESIDING OFFICER. This bill is reported adversely.

Mr. REED of Pennsylvania. Let it go over.

The PRESIDING OFFICER. The bill will be passed over.

The bill (S. 1377) for the relief of Lieut. Robert Stanley Robertson, jr., United States Navy, was announced as next in order.

Mr. KING. Let that go over.

The PRESIDING OFFICER. The bill will be passed over.

CHARLES R. SIES

The bill (S. 151) for the relief of Charles R. Sies was announced as next in order.

Mr. KING. Let that go over.

Mr. SHORTRIDGE. Mr. President, I should like the attention of the Senator from Utah for a moment.

The PRESIDING OFFICER. Does the Senator from Utah withhold his objection?

Mr. KING. I shall be glad to hear the Senator.

Mr. SHORTRIDGE. As the date of the report indicates, this bill has been on the calendar for many weeks. The committee reported the bill favorably, as the Senator will observe; and I think I am warranted in saying that each and every member of the committee was familiar with the case.

If the Senator will be good enough to look at the report, directing attention as I do to the last paragraph on the first page, the case is stated there.

Section 25 of the act of March 4, 1925, provides that—

Any officer of the regular Navy, who has been retired since December 31, 1921, by reason of physical disability which originated in the line of duty at any time between April 6, 1917, and March 3, 1921, inclusive, while holding higher temporary rank, shall be advanced on the retired list to, or shall be placed on the retired list in, such higher grade or rank.

While Mr. Sies's physical disability was incurred within the period above prescribed, he was not eligible for the benefits and considerations of the terms of that section, as he was retired prior to December 31, 1921. That is, he was retired on December 5, 1921, 26 days prior to the period stated by law; and the bill seeks to grant him the benefits to which he is entitled, similar to other officers of the Navy who incurred disability while serving under a higher temporary commission.

The point of the case, the turning point, perhaps the very merit of the case, lies in the fact that he was retired a few days before the date fixed in the law, December 31. He retired on the 5th of the month instead of the 31st. He was a brave

officer; he suffered permanent disability; and we seek to give him the relief indicated in the bill.

The PRESIDING OFFICER. Is there objection to the consideration of the bill?

Mr. KING. Mr. President, I opposed the general retirement bill. I thought it was unwise. I still think it unwise. I think it unfair to the enlisted men who served in the World War. Having passed that bill, I should like to see what its full implications are. It may be that the beneficiary under this bill will come within the terms of the general retirement act. At any rate, I ask my dear friend from California to forgive me if I ask that it go over for the moment.

The PRESIDING OFFICER. The bill will be passed over.

VOCATIONAL EDUCATION

The bill (S. 1731) to provide for the more complete development of vocational education in the several States and Territories was considered as in Committee of the Whole.

The bill had been reported from the Committee on Agriculture and Forestry with amendments.

The first amendment was, in section 1, page 1, line 3, after the words "Providing for the," to strike out "more complete" and insert "further"; in line 5, after the word "hereby," to insert "authorized to be"; in line 9, after the word "and," to strike out "for each year" and insert "annually"; in line 10, before the word "appropriated," to insert "authorized to be"; on page 2, line 7, after the word "the," to strike out "further development and improvement" and insert "salaries of teachers, supervisors, and directors"; in line 10, before the words "in such States," to strike out "agriculture" and insert "agricultural subjects"; in line 11, after the word "their," to strike out "total" and insert "rural"; in the same line, after the word "total," where it occurs the second time, to insert "rural"; in line 16, after the word "the," to insert "salaries of teachers, supervisors, and directors"; and in line 17, after the word "economics," to insert "subjects," so as to make the section read:

That for the purpose of providing for the further development of vocational education in the several States there is hereby authorized to be appropriated for the fiscal year ending June 30, 1929, the sum of $500,000, and for each year thereafter, for 11 years, a sum exceeding by $500,000 the sum appropriated for each preceding year and annually thereafter there is permanently authorized to be appropriated for each year the sum of $6,000,000. One-half of such sums shall be allotted to the States in the proportion that their farm population bears to the total farm population of the United States, exclusive of the Territories and insular possessions, according to the United States census last preceding the end of the fiscal year in which any such allotment is to be made, and shall be used for the salaries of teachers, supervisors, and directors of agricultural subjects in such States. The remaining half of such sums shall be allotted to the States in the proportion that their rural population bears to the total rural population of the United States, exclusive of the Territories and insular possessions, according to the United States census last preceding the end of the fiscal year in which any such allotment is to be made, and shall be used for the salaries of teachers, supervisors, and directors, development and improvement of home economics subjects in such States.

The amendment was agreed to.

The next amendment was, in section 2, page 2, after the words "purpose of," to strike out "enabling the Federal Board for Vocational Education to further assist the States in the development of agricultural and home economics programs for the rural districts, there is hereby annually appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $100,000" and insert "carrying out the provisions of this act there is hereby authorized to be appropriated to the Federal Board for Vocational Education, out of any money in the Treasury not otherwise appropriated, the sum of $100,000 annually, to be expended for the same purposes and in the same manner as provided in section 7 of the act approved February 23, 1917, as amended October 6, 1917," so as to make the section read:

SEC. 2. For the purpose of carrying out the provisions of this act there is hereby authorized to be appropriated to the Federal Board for Vocational Education, out of any money in the Treasury not otherwise appropriated, the sum of $100,000 annually to be expended for the same purposes and in the same manner as provided in section 7 of the act approved February 23, 1917, as amended October 6, 1917.

The amendment was agreed to.

The next amendment was, in section 3, page 3, line 21, after the word "year," to insert "and that the appropriations available to the Federal Board for Vocational Education for salaries and expenses shall be available for expenses of attendance at meetings of educational associations and other organizations, which, in the opinion of the board, are necessary for the efficient discharge of its responsibilities," so as to make the section read:

SEC. 3. The appropriations made by this act shall be in addition to, and shall be subject to the same conditions and limitations as, the appropriations made by the act entitled "An act to provide for the promotion of vocational education; to provide cooperation with the States in the promotion of such education in agriculture and in the trades and industries; to provide cooperation with the States in the preparation of teachers of vocational subjects; and to appropriate money and regulate its expenditures," approved February 23, 1917, except that the appropriation made by this act for home economics shall be subject to the conditions and limitations applicable to the appropriation for agricultural purposes under such act of February 23, 1917, with the exception of that part of section 10 thereof which requires directed or supervised practice for at least six months per year, and that the appropriations available to the Federal Board for Vocational Education for salaries and expenses shall be available for expenses of attendance at meetings of educational associations and other organizations, which, in the opinion of the board, are necessary for the efficient discharge of its responsibilities.

The amendment was agreed to.

Mr. BINGHAM. Mr. President, I should like to ask the author of the bill whether he would not be willing to permit the Territories to benefit under the act, as well as the States. The Territory of Hawaii pays into the Federal Treasury in income taxes as much as nearly the aggregate of 12 States, and it seems to me the Territories ought to benefit under this act. I have prepared a series of amendments adding the words "and Territories" wherever necessary, and I hope the author of the bill will not object to them.

Mr. GEORGE. Mr. President, I desire to say that I agreed with the late Senator from Ohio, Mr. Willis, to accept those amendments, providing he would offer them on the floor; and I have no objection to them.

Mr. BINGHAM. I thank the Senator.

On page 1, line 5, after the word "States," I move to insert the words "and Territories."

The amendment was agreed to.

Mr. BINGHAM. On page 2, line 2, after the word "States," insert the words "and Territories."

The amendment was agreed to.

Mr. BINGHAM. On page 2, line 4, strike out the words "Territories and."

The amendment was agreed to.

Mr. BINGHAM. In line 9, after the word "States," insert the words "and Territories."

The amendment was agreed to.

Mr. BINGHAM. In line 10, after the word "States," insert the words "and Territories."

The amendment was agreed to.

Mr. BINGHAM. In line 12, strike out the last word in the line, "Territories," and the first word in line 13, "and."

The amendment was agreed to.

Mr. BINGHAM. In line 18, after the word "States," insert the words "and Territories."

The amendment was agreed to.

Mr. BINGHAM. I shall also move at the proper time to amend the title by adding after the words "States" the words "and Territories."

Mr. KING. Mr. President, I want to call the attention of the Senate to the provisions of the bill, and to the adverse report from the President of the United States. The recommendation of the Budget is that this is against the financial policy of the President; and, therefore, it does not receive the approval of the Budget Bureau; and, of course, does not receive the approval of the President. I do not mean to intimate that the President, if the bill shall reach him, will veto it.

Mr. President, there is one feature of this legislation that I do not like. I want to be entirely frank with regard to the matter. This bill is not satisfied with making an appropriation for two years or four years, but makes it forever; and, of course, it rivets upon the States the 50–50 proposition and commits them, so far as the Federal Government may coerce them, to a perpetual appropriation—a permanent appropriation to match the permanent appropriation which is hereby authorized.

I confess that I do not like legislation of that character—legislation which first commits or requires the States forever to make certain appropriations. It is holding a bludgeon over their heads and saying to them, "We will not give you forever this $6,000,000 annually unless you appropriate a like amount."

Mr. McNARY. Mr. President——

The PRESIDING OFFICER. Does the Senator from Utah yield to the Senator from Oregon?

Mr. KING. I yield.

Mr. McNARY. I dislike to differ at all with the distinguished Senator from Utah, but no force is to be used by the Federal Government. It is purely voluntary. If a State does not want to participate in these benefits, it need not.

Mr. KING. Oh, I understand that. I thought I made that clear. I said it was a bludgeon. It is in a sense coercive. It says to them, "You can not get any of the $6,000,000 unless you respond 50–50," and, of course, a State will hesitate, with the pressure which will be brought to bear, to fail to respond; so that in the long run it is a moral coercion, if it is not a physical or a legal one. The Senator knows that any State that held out for a little while would bring upon its head the anathemas of all of the bureaucrats in the Department of Agriculture as well as the opposition of surrounding States, so that, after all, it is a moral compulsion which we seek by this bill to impose upon the States for all time.

I have no objection to an appropriation for two years or for four years, as we have been making appropriations in the past; but here we are insisting that we commit the Government for all time to this appropriation. I think it is unwise legislation. Certainly it has not commended itself to the judgment of the President of the United States, who, whether we agree with him politically or not, is seeking to discharge with fidelity the high responsibilities of his great office.

The PRESIDING OFFICER. If there be no further amendments to be proposed, the bill will be reported to the Senate.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill to provide for the further development of vocational education in the several States and Territories."

BILLS PASSED OVER

The bill (H. R. 8926) granting the consent of Congress to the State Highway Commission of Arkansas to construct, maintain, and operate a bridge across Red River at or near Garland City, Ark., was announced as next in order.

Mr. CARAWAY. Mr. President, there are still pending negotiations about amendments to this bill. I therefore ask that it be passed over.

The PRESIDING OFFICER. The bill will be passed over.

The bill (S. 2859) for the relief of Francis J. Young was announced as next in order.

Mr. JONES. Mr. President, if this bill is to be considered, I think it should be amended.

Mr. KING. Let it go over.

Mr. JONES. Let me suggest before it goes over that the bill purports actually to appropriate money. It says, "There is hereby appropriated." I think that ought to be changed. At any rate, if the Senator will withhold his objection, I move to insert, in line 8, after the word "hereby," the words "authorized to be."

The PRESIDING OFFICER. Will the Senator from Utah withhold his objection for the purpose of adopting the amendment?

Mr. KING. Yes.

The Senate, as in Committee of the Whole, proceeded to consider the bill, which was read, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to Francis J. Young, father of Wallace J. Young, late consul at Bradford, England, $4,500, being one year's salary of his deceased son, who died of illness incurred in the Consular Service; and there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, a sufficient sum to carry out the purpose of this act.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Washington.

The amendment was agreed to.

Mr. JONES. Then the bill can go over.

The PRESIDING OFFICER. The bill will be passed over

STANDARD WEIGHTS AND MEASURES

The bill (S. 2864) to establish the standard of weights and measures for the following wheat-mill, rye-mill, and corn-mill products, namely, flours, semolina, hominy, grits, and meals, and all commercial feeding stuffs, and for other purposes, was announced as next in order.

Mr. CURTIS. Mr. President, the Senator from Tennessee [Mr. TYSON] said he had no objection to this measure if in the last line the word "one" were changed to "two," so as to give the dealers two years. The Senator from Alabama [Mr. BLACK], however, wrote a letter in reference to it, and I do not know whether he has had an answer or not.

Mr. BLACK. I have not had a reply. There was an objection raised by a constituent of mine, and I would like to have the bill go over until I can hear from him.

Mr. CURTIS. Let it go over.

The PRESIDING OFFICER. The bill will be passed over.

Mr. CURTIS subsequently said: Mr. President, the Senator from Alabama has withdrawn his objection to the consideration of Senate bill 2864, and I ask that we return to it.

The PRESIDING OFFICER. Is there objection?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. 2864) to establish the standard of weights and measures for the following wheat-mill, rye-mill, and corn-mill products, namely, flours, semolina, hominy, grits, and meals, and all commercial feeding stuffs, and for other purposes.

Mr. CURTIS. I suggest an amendment, on page 5, line 5, to strike out the words "one year" and to insert in lieu thereof the words "two years."

The amendment was agreed to.

Mr. KING. Mr. President, I would like to ask the Senator from Kansas whether this changes in any way the existing system of weights and measures.

Mr. CURTIS. I understand not. If the Senator has objection to the measure, I have no objection to it going over.

Mr. KING. I do not want to object, if the Senator has given it attention and the committee think it is wise legislation.

Mr. CURTIS. The committee reports it unanimously, and the Acting Secretary of Agriculture approved the measure. There has been no objection to it except as to the one-year limitation. Some dealers have smaller packages at this time, and they think it might take two years to get rid of them. After two years the bill would require a uniform-sized package. It standardizes the packages; it provides that they shall be 5, 10, 25, and so forth.

Mr. DILL. It does not affect anything but grain, as I understand.

Mr. CURTIS. Nothing but grain and grain products.

Mr. KING. Is it meant to interfere with shipments in interstate commerce of packages that may not conform with this measure?

Mr. CURTIS. It does not interfere with shipments but it gives the producers two years to adopt a uniform system. Some packages now weigh 102 pounds, while nearly all packages weigh 100 pounds. This bill would require that packages be put up in decimal fractions of 100 pounds.

Mr. KING. Suppose I should desire to ship the Senator 90 pounds, and under a contract I make a shipment of 90 pounds of a given commodity. Would that be an offense?

Mr. CURTIS. It would not.

Mr. KING. If it is intended to interfere with contractual relations, and to compel shippers of the commodities herein referred to to adopt——

Mr. CURTIS. As I understand the bill, it does not intend to infringe upon contractual relations at all.

Mr. KING. With that assurance, I have no objection to it, but if it does interfere with contractual relations, it would be an impediment to business, instead of a benefit.

Mr. JONES. What is the character of these packages? I have not had an opportunity to look carefully into the measure.

Mr. CURTIS. It seeks to establish a standard of weights and measures for wheat-mill, rye-mill, and corn-mill products, such as flours, semolina, hominy, grits, and meals, and all commercial feeding stuffs.

Mr. JONES. Does the Senator understand that under this bill one could not ship packages containing these foods or products in a manner different from that prescribed in the bill?

Mr. CURTIS. No; one could ship them. This provides merely for a standard package offered for sale in the market. It is to provide that the packages shall all be regular, so that when you go into a store, after two years, and buy, you will buy a 5-pound package or a 10-pound package, instead of, perhaps, a 3-pound package or a 2-pound package; you will be sold packages of 5, 10, 25 pounds, and so forth, and 100 pounds instead of 102 pounds. In other words, it is to standardize the packages.

Mr. JONES. Why should we not pass some law under which we would require the amount contained in any package to appear on the outside of it, and punish for the shipment of a package containing less than that, rather than prescribe a certain-sized package in which the shipments shall be made?

Mr. CURTIS. The bill provides that for commercial feeding stuffs only, 60 or 80 pounds, each of which shall bear a plain, legible, and conspicuous statement of the net weight contained therein.

Mr. KING. I ask that the bill go over.

The PRESIDING OFFICER (Mr. ODDIE in the chair). The bill will be passed over.

KARIM JOSEPH MERY

The bill (S. 1970) for the relief of Karim Joseph Mery was considered as in Committee of the Whole and was read, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized to pay to Karim Joseph Mery, of San Antonio, Tex., out of any money not otherwise appropriated, the sum of $5,000, as compensation for the death of his son, Joseph Karim Mery, a minor, who was killed at San Antonio, Tex., on July 10, 1923, by the negligent driving of a United States Army truck.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

COTTON AND GRAIN IN FUTURE MARKETS

The bill (S. 1093) to prevent the sale of cotton and grain in future markets was announced as next in order.

Mr. RANSDELL. Mr. President, that bill is on the Legislative Calendar, having a preferred place. We could not finish its consideration under a limitation of five minutes for debate.

The PRESIDING OFFICER (Mr. FESS in the chair). The bill will be passed over.

JOINT RESOLUTION PASSED OVER

The joint resolution (S. J. Res. 57) requesting the President to immediately withdraw the armed forces of the United States from Nicaragua was announced as next in order.

SEVERAL SENATORS. Let that go over.

The PRESIDING OFFICER. The joint resolution will be passed over.

FARM RELIEF

The bill (S. 3555) to establish a Federal farm board to aid in the orderly marketing and in the control and disposition of the surplus of agricultural commodities in interstate and foreign commerce was announced as next in order.

The PRESIDING OFFICER. That is the unfinished business, and will be passed over.

JOINT RESOLUTION PASSED OVER

The joint resolution (S. J. Res. 99) to amend joint resolution directing the Interstate Commerce Commission to take action relative to adjustments in the rate structure of common carriers subject to the interstate commerce act, and the fixing of rates and charges, was announced as next in order.

The PRESIDING OFFICER. The joint resolution will be passed over.

GRANT OF LANDS IN NEW MEXICO

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 2535) granting to the State of New Mexico certain lands for reimbursement of the counties of Grant, Luna, Hidalgo, and Santa Fe for interest paid on railroad-aid bonds, and for the payment of the principal of railroad-aid bonds issued by the town of Silver City, and to reimburse said town for interest paid on said bonds, and for other purposes, which was read, as follows:

Be it enacted, etc., That there is hereby granted to the State of New Mexico 400,000 acres of the surveyed nonmineral unappropriated and unreserved public lands of the United States within said State, in trust, for the reimbursement of Grant, Luna, and Hidalgo Counties for interest paid by said counties on the bonds of Grant County, and for the reimbursement of Santa Fe County for interest paid by said county on the bonds of Santa Fe County, all of which said bonds were validated, approved, and confirmed by act of Congress of January 16, 1897 (29 Stat. 487); and also for the payment of the principal of the bonds issued by the town of Silver City and likewise validated by said act of January 16, 1897, and to reimburse said town of Silver City for interest paid by said town on said bonds: *Provided*, That if there shall remain any of the 400,000 acres of land so granted, or of the proceeds of the sale or lease thereof, or rents, issues, or profits therefrom, after the payment of said items and debt, such remainder of lands and the proceeds of sales thereof shall be added to and become a part of the permanent school fund of said State.

SEC. 2. That the said lands shall be selected in the same manner as provided for the selection of lands granted to the State of New Mexico by an act of the Congress of the United States approved June 20, 1910, entitled "An act to enable the people of New Mexico to form a constitution and State government and be admitted into the Union on an equal footing with the original States; and to enable the people of Arizona to form a constitution and State government and be admitted into the Union on an equal footing with the original States," and such lands shall be leased and sold in such manner and under such limitations and restrictions as are provided in the said act of June 20, 1910.

SEC. 3. Said State of New Mexico through its State board of finance shall determine the interest paid by said counties on said indebtedness, and the manner of liquidating the same, and likewise the amount of the principal due on the bonds issued by the town of Silver City, and the interest paid by said town and the manner of liquidating the same.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. REED of Pennsylvania subsequently said: Mr. President, Senate bill 2535 was considered and passed so quickly that there was no opportunity to study it. I would like to ask that it go over, unless we can have an explanation of it.

Mr. BRATTON. I shall be glad to explain it.

The PRESIDING OFFICER. Without objection, the vote by which the bill was passed will be reconsidered.

Mr. BRATTON. Mr. President, from 1880 to 1887, while New Mexico was a Territory, the counties of Grant and Santa Fe, and the town of Silver City, issued bonds in aid of railroad construction. Certain counties in Arizona did likewise.

In 1894 the Supreme Court of the United States held, in what is called the Pima County, Ariz., case, that a county or a municipality of a Territory did not have the power to issue bonds of that character and decided that the bonds there involved were absolutely void. The case fits the New Mexico situation perfectly. Its effect was to adjudicate that those bonds were absolutely void.

The bonds were in the possession of bondholders throughout the country. In 1897 the bondholders persuaded the Congress to pass an act validating those bonds and establishing liability for their payment, notwithstanding the fact that the counties and the town had no right to issue them.

When statehood in New Mexico was approaching, and the enabling act was under consideration, the Congress made a grant of land to the State to reimburse the bondholders; that is, to take up the outstanding bonds. In that, however, they overlooked the fact that these counties and this town had paid money—that is, that they had paid then and have paid since money aggregating nearly $400,000—upon a debt that was never valid except by the arbitrary act of Congress fixing liability for it.

In connection with the consideration of the enabling act Senator Beveridge said this in explaining that grant of land:

So these bonds were declared invalid. The history of both the New Mexico bonds of this kind and of the Arizona bonds of this kind is unusually interesting, but it is not necessary, of course, for me to go into that now. It is given in our report very carefully.

* * * * * * *

But whatever the reason was, Congress, after the Supreme Court had declared these bonds invalid, passed a law validating them. Upon that principle, I think, it was practically the unanimous opinion of members of the Committee on Territories of the Senate that the United States should pay these bonds, because by reason of any act of Congress a moral obligation had been created; but my committee saw no reason why we should pay the remainder of the debts of the counties.

* * * * * * *

The people would not have had to pay them but for the act of Congress.

So that Congress went on record at that time as declaring that there was a moral obligation on the part of the Government to take care of the obligation that the people would not have had to bear except through the act of Congress, passed in 1897, as I have indicated.

Mr. REED of Pennsylvania. If I understand what the Senator has just read, it was Senator Beveridge who declared that.

Mr. BRATTON. And the Congress passed the act.

Mr. REED of Pennsylvania. Will not the Senator explain why there is any moral obligation on the part of the United States to pay bonds issued in apparent good faith by these counties, on which the counties got the money, and on which the United States Government got no money?

Mr. BRATTON. It is this: That the bonds were void, because they were in contravention of an act of Congress, and the people never were compelled to pay them under the law as it then existed, and would never have had to pay them except for an arbitrary act of Congress passed thereafter.

Mr. REED of Pennsylvania. I see that. The Senator speaks of moral obligation. It seems to me the moral obligation rests upon the community that got the money by selling the bonds.

Mr. BRATTON. The money went into railroad construction, and the bondholders came to Congress and persuaded Congress to take their view of the situation, and to arbitrarily fix a liability upon counties and a town that they were not obli-

gated to bear under existing law. The Congress, in the enabling act, declared itself in favor of the Congress relieving them from a moral obligation that Congress had arbitrarily placed upon them.

The PRESIDING OFFICER. The time of the Senator from New Mexico has expired. Is there objection to the consideration of the bill?

Mr. FLETCHER. I would like to have the Senator answer in my time as to whether the railroad was actually constructed?

Mr. BRATTON. Yes.

Mr. FLETCHER. The railroad was built?

Mr. BRATTON. The railroads were built.

Mr. FLETCHER. Of course, the Territory could not issue any bonds, and could not authorize any county to issue bonds. That would be a matter entirely in the control of Congress.

Mr. BRATTON. Certainly.

Mr. FLETCHER. Bonds were issued, and the local community got the railroad, and then Congress came along and validated the bonds.

Mr. REED of Pennsylvania. It seems to me that the Federal Government is playing insurer for everybody, and is the loser in the whole transaction. The community got the money and got the railroad, the bondholders got paid, and now we are to furnish the means whereby all that is made possible. I do not see why the United States should pay.

Mr. BRATTON. I appreciate that we are operating under the five-minute rule——

Mr. FLETCHER. I take my time to suggest that what the Senator is now proposing is not a funding of all these bonds, or reimbursement for all the bonds, but only for the amount of money which the community spent in cash outside of the bond issue. Whether I am correct about that I am not sure.

Mr. BRATTON. The amount of the debt that the counties and the town have paid is now $397,502. The bill merely grants land to reimburse them for that sum of money. The bill was reported unanimously by the Committee on Public Lands and Surveys, the committee feeling that there was a moral obligation to make reimbursement.

The PRESIDING OFFICER. Is there objection to the consideration of the bill?

There being no objection, the Senate resumed the consideration of the bill.

The PRESIDING OFFICER. The question is, Shall the bill pass?

The bill was passed.

MINERAL ROYALTIES

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 8831) to provide for the collection of fees from royalties on production of minerals from leased Indian lands.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

RETIREMENT OF CIVIL-SERVICE EMPLOYEES

Mr. DALE. Mr. President, I was hoping that we might reach Calendar No. 684, Senate bill 1727, to amend the act entitled "An act for the retirement of employees in the classified civil service." We will not reach it this morning, but so that there may be no misunderstanding about it, I want to state that it is a very conservative bill, similar to one which the Senate has twice passed before, and at the first opportunity I am going to move to take it up.

JOHN W. STOCKETT

The bill (S. 2319) for the relief of John W. Stockett was announced as next in order.

Mr. JONES. I would like to have some explanation of that bill. It carries a large amount of money.

Mr. CARAWAY. The explanation is this: An employee in the department made an invention which the Government has used, and by its use it has saved, according to its contention, very large sums of money. But under the department's contention the man has no legal claim.

The PRESIDING OFFICER. The hour of 2 o'clock having arrived, the Chair lays before the Senate the unfinished business, which will be stated.

The CHIEF CLERK. A bill (S. 3555) to establish a Federal farm board to aid in the orderly marketing and in the control and disposition of the surplus of agricultural commodities in interstate and foreign commerce.

Mr. McNARY. Mr. President——

The PRESIDENT pro tempore. The Senator from Arkansas has the floor.

Mr. CARAWAY. I was desirous of concluding my statement with reference to the bill just before the Senate, unless the Chair holds that it now goes back to the calendar.

The PRESIDENT pro tempore. The bill may not be considered, but the Senator may conclude his speech.

Mr. CARAWAY. If the bill may not be considered, I do not care to consume the time of the Senate further.

REIMBURSEMENT TO STATE OF CONNECTICUT

Mr. BINGHAM. Mr. President, may I have the attention of the Senator from Oregon [Mr. McNARY]? Would the Senator be willing to ask unanimous consent that the unfinished business be temporarily laid aside for a moment in order that Calendar No. 562, the bill (S. 3117) for the relief of the State of Connecticut, which we were about to reach on the call of the calendar, might be considered? I will say to the Senator that the senior Senator from Utah [Mr. SMOOT] asked several times that the bill go over but has now withdrawn his objection to it, and I do not think there will be any objection. If it leads to debate I shall withdraw my request.

Mr. McNARY. Under that statement I am willing to grant the request of the Senator from Connecticut.

The PRESIDENT pro tempore. Is there objection? The Chair hears none.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. 3117) for the relief of the State of Connecticut, which was read, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to the State of Connecticut, out of any money in the Treasury not otherwise appropriated, the sum of $559,373.40, for and on account of advances and expenditures made by said State in the War of 1812 to 1815 with Great Britain.

Mr. FLETCHER. Mr. President, will the Senator state the purpose briefly?

Mr. BINGHAM. This is a claim by the State of Connecticut for expenditures made during the War of 1812, of a like character to that which has already been granted the States of Maryland, South Carolina, New York, and Delaware, and the city of Baltimore.

Mr. WALSH of Massachusetts. What is the amount?

Mr. BINGHAM. The amount is stated by the comptroller, in his report to the Senate, as about half a million dollars.

Mr. JONES. Mr. President, I understand there is some question about how we shall proceed the rest of the afternoon. I think we had better wait until that is determined before we act on this measure.

The PRESIDENT pro tempore. The Chair understood the unfinished business was laid before the Senate and then laid aside simply for the consideration of Calendar No. 562.

Mr. JONES. As I understand, there is some doubt whether we will go on with the unfinished business this afternoon. Possibly if that is not done we will have a call of the calendar, and in that way would reach the bill of the Senator from Connecticut in a very few moments.

Mr. McNARY. Mr. President, there is no doubt about the ability of those in charge of the unfinished business to go forward with it for a time at least. I simply yielded to the Senator from Connecticut momentarily with the understanding that there would be no objection to the consideration of his bill.

Mr. JONES. With that statement, I am perfectly willing that the Senator from Connecticut shall proceed.

The PRESIDENT pro tempore. The bill is before the Senate as in Committee of the Whole and open to amendment.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

CULVERTS AND TRESTLES AT CAMP M'CLELLAN, ALA.

Mr. BLACK. Mr. President, from the Committee on Military Affairs I report back favorably without amendment the bill (H. R. 5590) to authorize appropriations for construction of culverts and trestles in connection with the camp railroad at Camp McClellan, Ala., and I submit a report (No. 747) thereon. I ask unanimous consent for its immediate consideration.

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, and it was read, as follows:

Be it enacted, etc., That there is hereby authorized to be appropriated for the purpose of purchasing the necessary materials and hiring the necessary labor to construct or repair culverts and trestles and other parts of the camp railroad at Camp McClellan, as in the opinion of the Secretary of War may be necessary, a sum not to exceed $19,830.

Mr. JONES. Mr. President, may I ask if this is in connection with a military reservation?

Mr. BLACK. Yes; it is. I would like to state that the Secretary of War reported on it favorably. It passed the House and has the approval of the Committee on Military Affairs. The Secretary of War states that if the appropriation is not made the property will be damaged for lack of repairs.

Mr. JONES. It is Government property?

Mr. HEFLIN. Oh, yes.

Mr. BLACK. It is Government property.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

MESSAGE FROM THE HOUSE—ENROLLED BILLS AND JOINT RESOLUTION SIGNED

A message from the House of Representatives, by Mr. Chaffee, one of its clerks, announced that the Speaker had affixed his signature to the following enrolled bills and joint resolution, and they were signed by the Vice President:

S. 2301. An act to create a commission to be known as the Commission for the Enlarging of the Capitol Grounds, and for other purposes;

S. 3118. An act to authorize the construction of a temporary railroad bridge across Pearl River at a point in or near section 35, township 10 north, range 6 east, Leake County, Miss.;

S. 3119. An act to authorize the construction of a temporary railroad bridge across Pearl River in Rankin County, Miss., and between Madison and Rankin Counties, Miss.;

S. 3435. An act to authorize an appropriation from tribal funds to pay part of the cost of the construction of a road on the Crow Indian Reservation, Mont.;

H. R. 359. An act authorizing the presentation of the iron gates in West Executive Avenue, between the grounds of the State, War, and Navy Building and the White House, to the Ohio State Archeological and Historical Society for the memorial gateways into the Spiegel Grove State Park;

H. R. 8499. An act for the relief of Arthur C. Lueder;

H. R. 10563. An act extending the provisions of the recreational act of June 14, 1926 (44 Stat. L. 741), to former Oregon & California Railroad and Coos Bay Wagon Road grant lands in the State of Oregon;

H. R. 10884. An act to amend the act entitled "An act to carry into effect provisions of the convention between the United States and Great Britain to regulate the level of Lake of the Woods concluded on the 24th day of February, 1925," approved May 22, 1926;

H. R. 11579. An act relating to investigation of new uses of cotton; and

S. J. Res. 95. Joint resolution authorizing the Secretary of Agriculture to dispose of real property, located in Hernando County, Fla., known as the Brooksville Plant Introduction Garden, no longer required for plant-introduction purposes.

FARM RELIEF

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 3555) to establish a Federal farm board to aid in the orderly marketing and in the control and disposition of the surplus of agricultural commodities in interstate and foreign commerce.

Mr. COPELAND. Mr. President, the pending amendment is one which I introduced the other day. I have since discussed the matter with the Senator from Oregon [Mr. McNARY]. I ask unanimous consent to withdraw the amendment which I offered and to present in its place another amendment.

The PRESIDENT pro tempore. The Senator is at liberty to perfect his amendment at any time. The proposed amendment will be stated.

The CHIEF CLERK. On page 26, after line 21, insert the following:

4. The words "agricultural commodity" mean an agricultural commodity which is nonperishable in its nature.

Mr. WALSH of Massachusetts. Mr. President, will the Senator kindly state the difference between the amendment now offered and the one which he has withdrawn?

Mr. COPELAND. The other amendment apparently did not cover the entire problem contemplated under the bill. There is one section, section 7, where provision is made for marketing associations. The amendment which I offered the other day did not cover them, but the amendment now offered takes out of the bill fruits and vegetables entirely.

Mr. WALSH of Massachusetts. All perishable products?

Mr. COPELAND. All perishable products are removed. It puts the language in a part of the bill where it does not mar the general features of the bill or interfere with its high purpose. The amendment, if adopted, will protect the apple growers and other fruit growers and take care of all perishable products.

Mr. DILL. Mr. President, what is a perishable product—a product that lasts for a year or a year and a half?

Mr. COPELAND. I do not think there is any difference of opinion as to the definition.

Mr. DILL. Why should not the bill say "fruits and vegetables," and then there could not be any doubt about it? If we are going to amend it to clarify it, it seems to me we ought to say that it is not intended to include fruits and vegetables. Apples last about as long as potatoes nowadays.

Mr. JONES. Mr. President, I would suggest, in line with what my colleague has stated, that apples are kept now for practically a year. Of course, they have to be kept in refrigeration. I agree with what my colleague has stated. I have had a great many telegrams and letters protesting against apples being included within the terms of the bill. I have conferred with the Senator from Oregon, and I understand the position of the Senator is that he does not think they are really covered by the bill, but I think it is well that we should make it perfectly clear.

Mr. BORAH. Mr. President, I would ask that the amendment be read or explained.

Mr. McNARY. May I state that it is proposed by the Senator from New York as a substitute, the previous amendment having been withdrawn?

The PRESIDENT pro tempore. The question is on agreeing to the amendment proposed by the Senator from New York.

Mr. WALSH of Massachusetts. Did I understand the Senator from Oregon to say he had accepted the amendment?

Mr. McNARY. No; the Senator from New York is simply perfecting his proposal.

Mr. WALSH of Massachusetts. Has the Committee on Agriculture and Forestry taken any position on the amendment?

Mr. McNARY. None whatsoever. I presume action will be taken on the floor of the Senate.

Mr. COPELAND. Mr. President, I am just as anxious as the two Senators from Washington and the Senator from Massachusetts to make clear exactly what the bill means, because the apple growers of my State are very much concerned about it. Having consulted with the junior Senator from Washington [Mr. DILL], may I present the amendment in still another form, that in the general definition section 4 shall read:

The words "agricultural commodity" mean an agricultural commodity which is not a fruit or vegetable in its natural state or processed.

Mr. BORAH. I have a very earnest protest from the potato growers of my State. That would not cover potatoes, would it?

Mr. McNARY. A protest against the inclusion of potatoes in the bill?

Mr. BORAH. Yes.

Mr. McNARY. I think that language would take potatoes out of the bill. The language of section 5 takes all those products out of the bill because they are not sufficiently durable and have not the proper characteristics to enable them to be kept any length of time. I have desired, so far as I could, to remove any doubt that is in the mind of any Senator about such matters. There are several proposals and I think that we will consider them and work them out to meet the situation.

Mr. COPELAND. Am I to understand the Senator from Idaho that he objects to having potatoes taken out of the bill?

Mr. BORAH. I had a letter from a constituent of mine this morning very seriously doubting the wisdom of including potatoes. I had not thought about it. As I am not going to vote for the bill, I did not feel that I had much to say about perfecting it. I simply asked if the Senator's amendment would cover potatoes.

Mr. COPELAND. Yes; it would. It would exclude potatoes from the operation of the bill, as it would all fruits and vegetables.

Mr. WHEELER. Mr. President, I want to say to the Senator from Oregon that I also have received protests from apple growers in my State insisting that apples be left out of the bill.

Mr. McNARY. I think we will have no difficulty in complying with the request of the junior Senator from Montana.

Mr. SIMMONS. Mr. President, I simply want to say that I hope very much we may be able to agree upon a general amendment by which no product could be brought under the the terms of the bill without the consent of a board representing that industry.

Mr. BORAH. What is the Senator's idea about electing or selecting the board? I ask that for the reason that it is one of the subjects which has created some doubt in my mind?

Mr. SIMMONS. The council which I had in mind would be appointed by the President, on the recommendation of the board provided for, and confirmed by the Senate.

Mr. WALSH of Massachusetts. Mr. President, I would like to ask the Senator from Oregon if the Senator's committee intends to pass judgment upon the amendment submitted by the Senator from New York?

Mr. McNARY. Not for committee action. On the floor of the Senate I think we shall have no difficulty in taking care of it.

Mr. WALSH of Massachusetts. It is likely to come to a vote on the floor?

Mr. McNARY. Probably to-day; though I do not know.

Mr. WALSH of Massachusetts. I thought probably the Senator from Oregon would accept the amendment.

Mr. McNARY. I am going to accept an amendment that is generally agreeable. There may be some difference of opinion about it. I am satisfied with the one offered by the Senator from New York. There may be some modifications, but I do not want to consider those until we seriously take up the amendment for earnest consideration.

Mr. FLETCHER. Mr. President, I think the Senator's amendment simply provides that agricultural commodities shall not include nonperishable products. That is all he asks. That is a general definition of the term. I understand the Senator from Oregon is agreeable to that.

Mr. McNARY. Yes. I think, however, the Senator from New York has changed that language by suggesting the substitution of the words "fruits and vegetables."

Mr. COPELAND. At the suggestion of both Senators from Washington, who wished to make it very specific, I have changed the definition so as to exclude from the operation of the bill all fruits and vegetables in their natural state or processed so that there will then be no question that the interests represented by the Senator from Florida, as well as the apple people, will be entirely satisfied.

Mr. FESS. Mr. President, I have recognized from the beginning that we have an agricultural problem. There never has been any doubt in my mind about it. I have also recognized a well-defined desire to attack the problem and solve it properly. My own conception of it is that it is a matter of too great a spread between the price received by the producer and the price paid by the consumer. I do not hesitate to say that I would not knowingly vote for a bill which would increase further the cost of living. It does seem to me, however, that of the amount the consumer pays the producer does not get an equitable share. If we could reach that problem, which lies in the marketing, and could reduce the spread between the producer and the consumer, that would be wholly legitimate and ought to be done.

The bill which was passed in the last Congress had very objectionable features to me. I pointed out my objections in detail when that measure was under discussion. There has been since the action upon that bill and the veto of the President an honest effort, I think, to get together. To those who differed as to the remedy but who believed that there was a problem, it appears that progress has been made. This bill does not include the objectionable feature in reference to the appointment of the board. The change is a good one. The bill does not limit the operation of the law to a few commodities; it has been broadened so that the charge of discrimination that has sometimes been made does not now lie. However, I am of the opinion that the change in covering all commodities, while it answers the objection of discrimination, will really make the bill weaker in its actual operation. When I read the powers intrusted to the board which is to have control of agricultural products, it seems to me that nothing has been omitted from the control of the Government. That is one feature that, while it was intended to cure the defect of discrimination, does have in it a weakness, as I see it.

There was a feature in the bill as previously presented that is not so prominent in this one, but it is still contained in it, as I see it. I refer to putting of the Government in the business of buying and selling. There has been an effort made to show that that is not the case, but on examination, paragraph (d), on page 12, and also paragraph (e), on page 12, there is no doubt, in my mind, that the Government is to enter into agreements with marketing associations that will put it in the position of party of the first part, and in reality give it control of buying and selling. The previous bill, I think, was clearly a price-fixing measure, although its author questioned that it was, and other proponents of the bill also rather denied that it was of that character, I will say to my friend the Senator from Oregon [Mr. McNARY], who has been very fair in his presentation of the bill, and who, as I know, has worked assiduously in attempting to frame a bill for which we all could vote, that I think, while on page 12 a statement is made to the effect that prices shall not be fixed, yet price fixing is involved. This is the language to which I refer:

> The price at which a surplus or any part thereof is to be purchased or disposed of under any marketing agreement shall not be fixed in such agreement, but all such purchases and disposals shall be made subject to the prevailing competitive conditions of the markets in which they occur.

There is a statement which on its face seems to negative the charge that this is a price fixing bill; it states that the price will not be fixed; but when we reach the question of how losses are to be made up, we find this language:

> SEC. 8. (a) In order to carry out marketing and nonpremium insurance agreements in respect of any agricultural commodity without loss to the revolving fund, each marketed unit of such agricultural commodity shall, throughout any marketing period in respect of such commodity, contribute ratably its equitable share of the losses, costs, and charges.

Costs and charges may be easily determined; there is no doubt about that; but losses immediately become an indeterminate factor, and I can not understand how the Government agency can be responsible for making up the losses unless it knows something about the price at which a commodity is purchased and the price at which it is sold. If the agency is both the purchaser and the seller, then, certainly the price is fixed when the purchase is made. That point, I think my friend must admit, is in the bill. Otherwise the losses could not be estimated.

Mr. McNARY. Mr. President, will the Senator from Ohio yield to me?

Mr. FESS. I yield to the Senator.

Mr. McNARY. Clearly in this measure there is no price fixing in language or in purpose. However, Mr. President, it must be admitted, if the board determines to enter into the marketing of products with cooperative organizations, for the purpose of stabilization, and removes from the domestic market the surplus, that which remains for domestic consumption would naturally go to the top of the tariff wall; that would be the economic effect of supply and demand when the surplus is removed. If making the tariff effective may be called price fixing, then all our legislation with respect to the tariff is price fixing; and one of the purposes of the bill is to make the tariff effective as to agriculture.

When the board undertakes through cooperative organizations to acquire the surplus and relieve the depression in the price level thus caused, the price naturally will ascend to the point where the commodity is protected by the tariff wall. Any one who has knowledge of economic laws knows to that extent it is price influencing. If it is price fixing, it is making the tariff effective; and if the Senator has any objection to making the tariff effective as to agricultural products of which there is a surplus, then he is speaking on behalf of other industry and against the best interests of agriculture; and I do not think that is his position.

Mr. FESS. Mr. President, we have had experience with price fixing. We had such an experience during the war, and we want to forget it just as quickly as we can. Other countries have had similar experience. Brazil has had it in the case of the valorization of coffee, and the plan broke down. Great Britain had it up to last week in the price control of rubber, and that attempt broke down. In the case of various commodities of which certain countries have more or less of a monopoly, price fixing attempts have been made by the government, but in every case, so far as I know, the efforts have been abandoned.

Mr. BROOKHART. Mr. President——

Mr. FESS. I yield to my friend from Iowa.

Mr. BROOKHART. I should like to ask the Senator a question. While he says the undertakings to which he refers have broken down, have they not in each case brought prosperity to agriculture in the countries affected, or that part of agriculture which produced the particular commodities?

Mr. FESS. Temporarily that is always the case.

Mr. BROOKHART. Some temporary prosperity would feel very good to the farmer now.

Mr. FESS. I do not think that my good friend would agree that a momentary stimulus that would result in a period of nausea later on would be a good thing.

Mr. BROOKHART. The condition of agriculture could not be made worse.

Mr. FESS. In other words, medicine which will stimulate for a minute may ultimately kill the patient, and that is the thing we ought to avoid.

Mr. BROOKHART. Perhaps agriculture would get enough out of it to provide for decent burial; it is dead now.

Mr. FESS. I do not think the Senator is very sincere in that statement.

So much for the price-fixing idea. Now I want the attention of my friend the Senator from Oregon, the author of the bill, to paragraph f, page 13, which, if I understand it correctly, presents, I think, a serious problem. I read as follows:

(f) During a marketing period fixed by the board for any commodity, the board may enter into marketing agreements for the purchase, withholding, and disposal of the food products of such commodity, and all provisions of this section applicable to marketing agreements for the purchase, withholding, and disposal of a surplus of the commodity, shall apply to the agreements in respect of its food products.

This is the situation as it appears to me: The purpose of this measure, definitely stated, is to lift the domestic price to a plane that seems to be reasonable; in other words, we are hoping by this proposed legislation to prevent the price of American agricultural products descending to the level of the price in the world's market. If that be not the purpose of the measure, I do not understand it. In other words, economically it has been stated that the surplus determines the price of the home product; that if we have 800,000,000 bushels of wheat and can only consume here at home 600,000,000 bushels, the surplus of 200,000,000 bushels will have to be sold elsewhere than in the home market; and if the price at which that surplus is sold is lower than what is reasonable here at home, it will bring the home price down to what that price is. We are trying to avoid that. That, I understand, is the purpose of this legislation.

If that be true, if we want to maintain the home price above the level of the world price, and this measure is designed to do that, the purpose of the legislation is to keep up the price; and if our purpose is to keep up the price and the proposed legislation extends to food products the same as to raw materials, then the effort to maintain the price of wheat will apply to the food products of wheat; it will to flour and also to bread. If the purpose of paragraph (f) is to apply the proposed legislation to food products, then we are here legislating to maintain the price of flour in the hands of the miller, for wheat is not flour until it gets to the miller, and we are undertaking to maintain the price of bread in the hands of the baker, for flour is not bread until it reaches the baker. So I am forced to the conclusion that in most specific language this measure proposes to authorize the Government to maintain the price of flour for the miller and bread for the baker. I do not think that the miller or the baker has any claim upon the Government to maintain a price above what the competitive conditions establish. If competitive conditions will operate, then this is unnecessary. So it is a serious problem with me if I am called upon to legislate to maintain above a certain level the price of food products when it is a guaranty only to the people who do not need the guaranty, and at the expense of the ultimate consumer.

I read that again:

During a marketing period fixed by the board for any commodity—

That is wheat—

the board may enter into marketing agreements for the purchase, withholding, and disposal of the food products—

That is pork. The food product of hogs is pork; and if the Government is maintaining the price of pork, it is supporting the packers, for it is not pork until the packers get through with it; and we are called upon here to legislate to maintain the price of the food that we use on behalf of the processors, who are the millers and the packers. I will not vote for a measure that will include that.

Mr. BROOKHART. Mr. President, I think the Senator's observation is very well timed. There is merit in it.

Mr. FESS. If I am wrong, I want it pointed out.

Mr. BROOKHART. But I want to call the Senator's attention to the amendment I have offered, in which the cost of production plus 5 per cent profit price is paid to the farmer himself; and when these products are bought from the packers they are only bought on the condition that the packers will pay the cost of production with 5 per cent capital return added.

Mr. FESS. Does the Senator think he has an amendment that will cure that?

Mr. BROOKHART. I think so. I think my amendment cures it. My amendment has not any support yet. I do not know whether it is a substitute——

Mr. FESS. Certainly my interpretation of this paragraph is not wrong.

Mr. BROOKHART. I think the Senator is correct in that interpretation.

Mr. McNARY. Mr. President, this is the same argument that the Senator made last year, with which I wholly disagreed. There are two or three amendments pending that may clarify the situation, which I shall discuss at the present time.

Mr. FESS. I want the Senator to understand that I am not squeamish about the thing. I am trying to get at it, and the Senator knows that I have been very anxious that we might get a bill we could all support.

Mr. SHIPSTEAD. Mr. President, the Senator realizes that we can not buy hogs to affect the price of hogs or the price of pork. This board can not buy hogs.

Mr. FESS. The board is not doing anything. The board is making agreements with certain associations to do it; and the Government itself, speaking through the board, is the party of the first part and becomes responsible for it. That is one objection that I have to the bill. If the bill left it to voluntary marketing associations, I would vote for it; but it does not do that. The proponents of the bill say that that would not be effective; that the only way to do it is to put the Government back of it. My good friend from Idaho [Mr. GOODING] takes that view and the proponents of this bill take that view. That is not economic, and it is not necessary.

Mr. SHIPSTEAD. If the Senator will permit me, if the economics of the bill is correct at all, if it is to affect the price of hogs, it must be reflected through the price of pork. If you are going to take pork off the market in order to raise the price of hogs, you can keep pork. You can not keep hogs, because they will eat so much that you can not afford to keep them. A hog must be sold and slaughtered when he is ready to go to the slaughtering pen. You can not buy up hogs and store them away.

Mr. FESS. Does the Senator think that it is ever necessary to buy pork and withhold it from the market in order to keep up the price? Is not the price of pork high enough? Is there any reason in the world why great organizations like the packers, which sell the great majority of pounds of pork, should be protected by Government decree?

Mr. SHIPSTEAD. I am not talking about the packers. I am talking about the price of hogs.

Mr. FESS. The Senator is talking about the food product of hogs.

Mr. SHIPSTEAD. And we are exporting pork all the time.

Mr. FESS. Who is exporting pork?

Mr. SHIPSTEAD. The United States.

Mr. FESS. Yes; the packers are.

Mr. SHIPSTEAD. Yes.

Mr. FESS. That is the point. If the Senator wants to do that, all right. I do not.

Mr. SHIPSTEAD. Does the Senator claim that the price of pork has nothing to do with the price of hogs?

Mr. FESS. Oh, certainly; the price of hogs has most to do with the price of pork.

Mr. SHIPSTEAD. What I am trying to find out is how the Senator is going to apply this bill unless he finds it necessary to buy pork.

Mr. FESS. I should be perfectly willing to vote for a measure that gives the marketing associations the power to withhold from the market the stock they buy.

Mr. SHIPSTEAD. The hogs?

Mr. FESS. Yes; the livestock and wheat, and so on.

Mr. SHIPSTEAD. You can hold wheat from the market, but you can not hold cattle and hogs from the market.

Mr. FESS. Why not?

Mr. SHIPSTEAD. Because they will eat you out of your place. When they are ready to be slaughtered they must be slaughtered. You can not keep them all winter.

Mr. FESS. Certainly; but an association can maintain hogs as well as the raiser of hogs can, can it not?

Mr. SHIPSTEAD. Wheat does not eat; but hogs and cattle eat, and you can not afford to keep them.

Mr. FESS. That is a very remarkable discovery that the Senator has made.

Mr. SHIPSTEAD. The Senator from Ohio evidently finds this a new idea. It is remarkable to the Senator from Ohio, and that is why I find it necessary to tell him that he can not keep hogs and cattle beyond a certain period of time, because they will eat.

Mr. FESS. The Senator from Minnesota has never lived on a farm. He does not know anything about what he is talking about. I lived on a farm. I know that when you market hogs it does not necessarily mean that you have to have a fixed date. I admit that after you have gotten them to the marketing stage it is better to put them off, of course.

Mr. SHIPSTEAD. You have to.

Mr. FESS. You do not have to. You can sell a hog that is 9 months old, or you can sell one that is 12 months old, or you can sell one that is 15 months old, or you can sell one that is 2 years old. You can sell a calf when it is a calf, or you can sell it when it is a year old, or you can sell it when it is 2 years old, or you can sell it when it is 3 years old.

Mr. SHIPSTEAD. Yes.

Mr. BROOKHART. When they have eaten up all your money, and you can not borrow any more at the bank, you have to sell them.

Mr. FESS. My friend from Iowa knows that what I am saying is true. The Senator from Minnesota does not, but the Senator from Iowa does know.

Mr. SHIPSTEAD. Let me make just one observation to the Senator from Ohio.

Mr. FESS. All right.

Mr. SHIPSTEAD. He can keep a steer for 20 years if he has a big enough bank account to buy the food for him. Of course he does not have to sell.

Mr. FESS. When is the marketable time for cattle?

Mr. SHIPSTEAD. When they are finished.

Mr. FESS. When are they finished?

Mr. SHIPSTEAD. You can ask any boy on the farm and he will tell you.

Mr. FESS. But the Senator can not tell me.

Mr. SHIPSTEAD. Yes; I can tell the Senator.

Mr. FESS. No; the Senator can not.

Mr. SHIPSTEAD. I am sure the Senator does not take his own question seriously.

Mr. FESS. Yes; the Senator does. The Senator from Minnesota has an idea that the Senator from Ohio knows nothing about the farm. He is assuming that because the Senator from Ohio at one time left the farm to do some professional work; but I want to say to my friend that the people who refer to these Senators as "high-hatters" do not know what they are talking about.

Mr. SHIPSTEAD. I would never accuse the Senator of that. I am only accusing the Senator of assuming some things when there is no basis for the assumption.

Mr. FESS. I do not want to take the time of the Senate unduly. I decided just to make a brief statement, but I see that I am going to get into this thing, and I do not want to.

Mr. President, as I stated before, if the operations of this bill were limited to the marketing associations, I would vote for it. There would be one or two amendments that I should like to offer, but if they were not adopted it would not be serious. I should be willing to vote for the bill without them. The bill carries another feature that is compulsory, however, and that is not only objectionable on the ground that it is unworkable but it is objectionable on the ground that I do not believe it will ever pass the Supreme Court of the United States.

Mr. McNARY. What is that?

Mr. FESS. That is the equalization fee.

Mr. BROOKHART. Mr. President, will the Senator yield before he passes to the discussion of the equalization fee?

Mr. FESS. I will.

Mr. BROOKHART. The Senator mentioned the fact that he was opposed to the Government getting behind these cooperative associations. As I remember, the Senator voted for the Esch-Cummins railroad bill.

Mr. FESS. Yes.

Mr. BROOKHART. In that bill the Government not only got behind the return of the railroads——

Mr. FESS. Only for six months.

Mr. BROOKHART. Well, it did it for six months, and that cost us $529,000,000. If I could get that much, I could start a pretty big export corporation.

Mr. FESS. There ought to be some clarification here. The Government had held the roads for about 26 months under an agreement that when they were returned they would be returned in as good condition as when they were taken over; and when we passed them back under private control we did write in the bill a provision for a guaranty up to six months.

Mr. BROOKHART. But that was not returning the roads in as good condition as they were. It was over and above that. It was paying war-time profits to the roads for that six months, and it cost us $529,000,000.

Mr. FESS. It was stated, however, that the roads would be the loser in the transaction, and I assumed that they were; but when it comes to the transportation act of 1920, outside of the six months, the Government is not back of any guaranty, as the Senator knows.

Mr. BROOKHART. Not out of the Treasury; but the Government wrote into the law rules for valuation, and then it wrote into the law a command to the Interstate Commerce Commission to give them a rate of return on the people of the country of 5¾ per cent.

Mr. FESS. Oh, no; oh, no! It just expressed an opinion; and the commission has never done that.

Mr. BROOKHART. The law says that it shall do it.

Mr. FESS. The commission has never done it.

Mr. BROOKHART. It has tried to do it.

Mr. FESS. If it were a guaranty, then the Government would have to make it up, as it never has and never will.

Mr. BROOKHART. It is not a guaranty out of the Treasury, of course, but it is a guaranty out of the people's pockets.

Mr. FESS. The Senator and I do not agree at all on that item, as is very apparent. The railroads are a public utility and perform a public function and are therefore subject to Government regulation. The railroads are not regulated to increase the cost to the public. The railroads are regulated to keep down the cost to the public. Here is legislation that touches subjects not public, and the purpose is to elevate the price.

Mr. BROOKHART. Let me ask the Senator, did not the Government regard farm products as a public utility, and did not the Government take over wheat and make a profit out of wheat?

Mr. FESS. No; the Government did not regard it as a public utility at all.

Mr. BROOKHART. It took it over, the same as it did the railroads, and it fixed prices of nearly everything else, so that they were practically determined by Government regulation.

Mr. FESS. As the Senators knows, that was purely an emergency measure, in war time, not because it was the subject of legislation, but it was a protective measure on the part of the Government.

Mr. BROOKHART. After the war was over we proceeded to guaranty for six months the profits to the railroads out of the Treasury.

Mr. FESS. That was to keep our contract with the railroads.

Mr. BROOKHART. That was not provided in the act taking over the roads.

Mr. FESS. We could talk until doomsday, and the Senator from Iowa and I would never approach one another on that question.

I want to present a situation now which I think obtains in regard to this bill that is very objectionable. If we operate the equalization fee on corn, in order to maintain a price higher than that in the world market, then we will have corn raised in America, fed to American hogs, at a certain price, and sold under the direction of the board to Canada at the world price, which would be lower. Otherwise there is nothing to it. The lower-priced American corn sold to Canada would be fed in Canada to hogs, and be marketed in the same market where American hogs are marketed. I think that is wholly unfair, and it seems to me it will work havoc when we come to see its operation.

Mr. BROOKHART. In regard to that, in the first place, there is a tariff on corn of only 15 cents a bushel. If we can raise corn under the tariff there is not much relief. By an amendment I have offered to this bill we propose to try to improve the world market for corn, as the Canadians have improved the world market for wheat.

Mr. FESS. I have not examined the Senator's amendment, but I shall be glad to study it. The feature to which I have just referred is inequitable, unjust, and will prove itself rather harmful to the American hog raisers.

Mr. WHEELER. Mr. President, will the Senator yield?

Mr. FESS. I yield.

Mr. WHEELER. If the tariff on corn were effective, then, at the present time, the Canadian farmer would be able to buy his corn cheaper than it could be bought in America, would he not?

Mr. FESS. Buy it from other countries?

Mr. WHEELER. Yes.

Mr. FESS. Yes.

Mr. WHEELER. So that would not alter the situation, really, as far as the Canadian hog raiser is concerned.

Mr. FESS. No; other than this: That corn raised in the United States would be sold on the same plane with the corn raised in other countries from which Canada would buy. My only point was that you are making a discrimination against the man who feeds high-priced corn in the United States, in favor of the man who feeds the lower-priced corn in Canada.

Mr. WHEELER. But if the tariff on corn is of any benefit to the farmer, it would have exactly that effect at present.

Mr. FESS. The Senator knows the tariff does not apply to exports. The tariff is applicable only to imports, and we

are talking about exports to Canada. If that is not true, then there is nothing in the bill.

Mr. GOODING. Mr. President, will the Senator yield?

Mr. FESS. I yield.

Mr. GOODING. Surely we are going to raise the price of American corn to Canada. There is no doubt about that. We do not export corn, to commence with, or so little that it amounts to nothing at all. It is not in the class of wheat or hogs at all. It is an entirely different proposition.

Mr. FESS. Then in the name of common sense, if we do not export corn, why apply the equalization fee to corn?

Mr. BROOKHART. Because we export corn through hogs. That is the reason. Canada will not buy any cheaper corn.

Mr. FESS. Mr. President, this is a fine illustration of the remarkable acumen of the Senator from Idaho. He wants to place the equalization fee upon corn in order to lift the American price above the world price in the markets to which we export corn, and then turns about and says we do not export any corn. Then why should we apply the equalization fee to it?

Mr. BROOKHART. We do export corn, but it is a small proportion of the yield.

Mr. FESS. In reference to the equalization fee, I hold that the equalization fee is not workable. I am perfectly frank in saying that the theory of the equalization fee is good. If it could be worked, and were constitutional, it would seem sound economically, for the theory is that if you have legislation on behalf of the producer, to save him from losses, then whatever loss the producer will suffer ought to come from the persons benefited by the law. I think that is equitable, and if it would work it would be economical; but I do not think it would work at all.

Mr. BORAH. Mr. President, will the Senator yield?

Mr. FESS. I yield.

Mr. BORAH I can not agree with the last statement of the Senator. One of my objections to this bill is that the proponents have singled out the farmer and imposed upon him an equalization fee in order that he may get what is said to be the other end of the protective tariff, while the manufacturer gets his protection without any fee at all.

Mr. FESS. That is true. What I had in mind was that the theory is that this legislation is on behalf of the producer. If any loss comes to the producer from selling at a lower price in the export market, that loss ought to be suffered by the man who is benefited by the law. That is what I meant, that if this could be done, it ought to be done; but I agree with the Senator that it is singling out one enterprise of the country and not applying to others.

Mr. BORAH. At the present time the farmer is paying about one-third of his income less other expenses to meet his taxes, a proportion which no other industry in the country approaches. And at the same time there is to be added a special burden in addition to his already disproportionate tax before he can have remedial legislation.

Mr. FESS. And he can not add it to his price.

Mr. BORAH. And it is a fact that the taxes are increasing about every 10 years sufficiently to take all the possible profits that he can make out of his crops.

Mr. FESS. That is true.

Mr. BORAH. What I can not understand—and I say this in the utmost good faith—is why it is not perfectly just and equitable to make an appropriation for the purpose of testing the value of this experiment. Who else comes to Congress asking for remedial legislation and is told that they must be especially charged for it? Would the Senator support an appropriation for the purpose of determining whether or not the theory upon which the marketing agreement rests is sound?

Mr. FESS. I think I would not.

Mr. WHEELER. The question raised with me would be as to the constitutionality of the proposition.

Mr. FESS. I doubt very much whether that would be constitutional.

Mr. BORAH. I know that question has been raised, but I would like to have somebody show me an authority where the Congress of the United States has ever been called to order by the Supreme Court of the United States for making a general appropriation for what it conceived to be in the public interest.

Mr. GOODING. Mr. President, will the Senator from Ohio let me clear up a little my remarks on not exporting corn?

Mr. FESS. Yes; I yield.

Mr. GOODING. I think it is generally conceded that we export so little that it is not considered a factor, as far as that is concerned, in the 3,000,000,000 bushels we produce.

Mr. FESS. I think the Senator is right in that.

Mr. GOODING. The corn people do not expect to get any benefit from the export of corn. It comes through the hogs. We feed all of our corn, practically, to the hog in America, and there comes the farmer's benefit. Unless he can get a benefit in that way we can not help the corn producers at all.

Mr. FESS. I oppose the equalization fee, and could not vote for any bill that has the equalization fee in it; first, because I think without doubt it is not constitutional, and there is no question about the bill getting before the Supreme Court in due time if it becomes a law. Of course, a lot of people say: "That is not for us to determine. Let it be passed, and let it go to the Supreme Court." I do not believe that is quite the level on which we ought to place legislation in the Senate.

Then I am quite confident that it is not workable, for if you are to apply the equalization fee you must make it applicable to all. You can not make fowl of one and fish of the other. In order to operate it you will have to build up a bureau, which I fear will cost more to manage than will be the profit to come to the people who are beneficiaries of the law.

I know it is stated here that it is to be collected through transportation or through the processor or through the purchaser. Then if that be true—and I assume it would be—you can not leave it to the word of the thousands of purchasers or processors or transporters as to whether it is paid or not. If you do not have this Government function administered by a Government bureau, it will be wholly unworkable, and if you handle it by a Government bureau, then the price that will be paid to the bureau to operate it will be undoubtedly large in proportion to what will be saved as a benefit to the producer.

Not only that, but the whole thing is a guess, nothing more than a guess. The board under the bill will before this is to become operative estimate for any commodity what the probable losses will be. How on earth can anybody estimate what the probable losses will be on any crop before the crop is marketed? If you are going to make it a mere guess, how are you going to finance it? The bill says that these marketing associations can be financed out of the stabilization fund without the payment of interest. That means that there is no limit to the stabilization fund. There is a limit in that the bill provides it shall not exceed the revolving fund, which is $250,000,000. But if in the operation of this bill we find that the original authorization of $250,000,000 is not sufficient to operate it and there is a demand on Congress to increase the authorization what will be the outcome of it?

There is no limit as to what we will be called upon to appropriate in order to operate this bill.

Mr. BORAH. Mr. President, my friend, the Senator from Montana, was of the opinion a moment ago that the proposition which I suggested would be unconstitutional. I want to ask, Is not that principle in the bill now? We are now asked to make an appropriation of $250,000,000.

Mr. WHEELER. That is in the nature of a loan; that is not in the nature of a direct appropriation to be turned over to pay the farmer something.

Mr. BORAH. How can you take something out of the Treasury of the United States and loan it to private individuals for the purpose of carrying on business any more than you can make a direct appropriation out of the Treasury for their benefit? I think the same principle is in this bill. I do not say that renders the bill unconstitutional. I do not contend that it does, because in my opinion the courts have gone so far in sustaining the action of Congress in regard to those things that I do not think it vulnerable to a constitutional question, but the same principle is here now that would be in the other proposition.

Mr. WHEELER. If the Senator will pardon me——

Mr. FESS. I would like to have the Senator's opinion on another matter that I will call his attention to, which suggested the question of the Senator from Montana.

Mr. WHEELER. The impression I meant to convey was that the opponents of the bill are now contending that even a loan to the farmer is unconstitutional. That is one of their objections to it. The Senator from Idaho says that instead of lending money and having them pay it back by an equalization fee, why not just appropriate the money out of the Treasury of the United States and give it to them? The purpose of the equalization fee is to get away from that very thing. As far as I am personally concerned, I am sure that I would support the Senator's suggestion if it could be carried out, but I am sure you would get no place in the Senate with a proposal for a direct appropriation of money that was never to be paid back.

Mr. BORAH. Upon what theory could the Senate discriminate with reference to the appropriation in the face of the multitude

of appropriations which it is constantly making in the same line of action?

Mr. WHEELER. I think the Senator is absolutely right on the proposition that we are constantly appropriating money, but there is no one that rises in the Senate and raises his voice to say that "the appropriation for this thing or that thing is unconstitutional." But it seems that when the question of agriculture comes up and we seek to appropriate money for that purpose every lawyer gets up and immediately says the proposition is unconstitutional. We authorized the other day, for instance, an appropriation of money running into the millions for flood relief. No one ever even looked into the constitutionality of the question, and we passed it by without even giving it a serious thought.

Mr. GOODING, Mr. SHORTRIDGE, and Mr. TYDINGS addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Ohio yield; and if so, to whom?

Mr. FESS. Mr. President, I should like to claim the floor just a moment in my own behalf, and then I shall be glad to yield.

I call attention to a statement of the Senator from Montana [Mr. WHEELER] in reply to a question of the Senator from Idaho [Mr. BORAH]. There is a provision in section 10 of the bill called the insurance provision. I ask the Senator's attention to whether this is a loan or not. The insurance is an obligation to insure the associations against a loss by being compelled to sell what they buy at a lower price than they paid for it when it was delivered. That has been one of the big questions. If marketing associations go out at harvest time and buy up at a price they decide upon and then ultimately a slump comes and the market price is below what they paid and no chance exists for them to get a higher price, there is an inevitable loss. Section 10 of the bill is to insure against that loss.

Mr. TYDINGS. Mr. President, will the Senator yield right at that point?

Mr. FESS. Not now. There is a stabilization fund created in the bill. That is made up first by advances from a revolving fund in the way of a loan; secondly, by repayment of those advances; and, third, by the fees assessed through the equalization-fee plan. The only item that makes it revolve or self-supporting would be the fee paid under the equalization-fee plan. That is paid by the producer. But the provision for insurance is applicable to both premium members and nonpremium members. Let me read it. I want the Senator's attention to this, because it is extremely important. It reads as follows:

(c) Whenever in the judgment of the board the use of such insurance agreements in respect of any commodity will stabilize the market substantially in the interest of the producers of the commodity, whether or not members of a cooperative association dealing in the commodity, then the board, during the continuance of any marketing period for the commodity as provided in section 7, may enter into nonpremium, or if the board deems it advisable, premium insurance agreements with cooperative associations dealing in the commodity. Whenever in the judgment of the board the use of such insurance agreements will not so stabilize the market, then the board may enter into premium insurance agreements only with the cooperative associations.

So that the premiums paid by the owner who insures will create a fund out of which can be paid all losses. It is an insurance. It applies not only to the member of the association who pays the premium, but there is a provision for nonpremium insurance. There is no possibility of a fund created in the insurance when the person pays no premium. Now what will be done?

Payments required under nonpremium insurance agreements in respect of any commodity shall be made out of the stabilization fund for the commodity.

Here is a provision in the bill that assesses upon every producer nonmember of the association to support the association in order that the association may be able to go on with the contract. It is identical to assessing a fee upon every laboring man in the country to support a union of which he is not a member. While I believe in labor unions and believe in the membership of a labor union supporting the union, I never could be brought to believe that it is justice to assess any fee upon those who do not belong to the union to support the union. Neither do I believe that a producer not belonging to an association can properly be assessed to maintain the association. That should be limited to members of the association. Such a provision is in the bill, and that is not a loan. That is a payment out of the stabilization fund. How do we create the stabilization fund? By loan from the revolving fund and the fees that come in from the equalization fee; and yet we take it out of that fund to pay the nonpremium insurance.

I yield now to the Senator from Maryland.

Mr. TYDINGS. The Senator from Idaho just a moment ago asked for some case showing the Supreme Court limitation on appropriations made by Congress. I would like to refer the Senator to the case of Dobbins *v.* the Commissioners of Erie County (16 Pet. pp. 448–449), where Justice Wayne, delivering the unanimous opinion of the court, said in the opinion:

The revenue of the United States is intended by the Constitution to pay the debts and provide for the common defense and general welfare of the United States; to be expended, in particular, in carrying into effect the laws made to execute all the express powers, "and all other powers vested by the Constitution in the Government of the United States."

Again Chief Justice Chase, delivering the opinion of the court in the case of Veazie Bank *v.* Fenno (8 Wall. 541, U. S. Repts.), said:

There are, indeed, certain virtual limitations arising from the principles of the Constitution itself. It would undoubtedly be an abuse of power is so exercised as to impair the separate existence and independent self-government of the States, or if exercised for ends inconsistent with the limited grants of power in the Constitution.

There are paragraphs from the opinion of the court in those two cases, and in each case the court has held that Congress must be bound by the express grant of power in the Constitution in the appropriation of money. I simply present them as something along the line suggested by the Senator.

Mr. BORAH. I am familiar with that general rule which the courts have announced from time to time, but the instances in which the Congress of the United States has appropriated money outside of what the Senator assumes to be the rule there laid down, are very numerous.

Mr. TYDINGS. Yes; I know that to be true.

Mr. BORAH. The fact is that when we come to analyze the decisions upon the facts, there is practically no limit if the Congress is acting within what the Congress deems to be the public welfare.

Mr. TYDINGS. But as limited by the express power.

Mr. BORAH. What is the express power? What is the provision of the Constitution which would prevent our appropriating $500,000,000 with a view to trying to settle the agricultural problem, which is called a farm problem, but is not a farm problem? It is a national problem involving the welfare of every man, woman, and child in the United States, whether in the city or on the farm, a matter just as important for the preservation of prosperity and the economic welfare of the United States as any other proposition that comes before us. It is a great national problem, affecting the whole people, and there are both precedents and law for an appropriation to meet the problem.

Mr. TYDINGS. That is true as an abstract proposition. I could conceive of how Congress could fix in such a way the equalization fee that the court could very well hold that it was an abuse of the express power outlined in the Constitution; that we were not to finance groups or individuals in this manner. It certainly is an innovation in American Government to have an equalization fee incorporated in a bill with the sanction of Congress.

Mr. BORAH. I am not arguing for the equalization fee. I want to eliminate it and make a direct appropriation for the benefit of the American farmer and so solve the problem. Under every test we could possibly have applied it is a national problem of national concern, and in my opinion there are numerous decisions which would sustain it. Not long since we went to the extent of appropriating $20,000,000 or $40,000,000, I have forgotten which, for the farmers of Russia.

Mr. TYDINGS. But that question was not carried to the Supreme Court of the United States. I think if it had been carried there it would have been held to be a grant without any authority in the Constitution.

Mr. BORAH. Of course, I do not regard this matter as being important, because the bill is made up and those who are supporting it believe in its principles and are advocating it; but if it were simply a question of whether we had the power to appropriate the money for this purpose, I think I could satisfy the Senator, upon decisions of the Supreme Court, that we have the power.

Mr. TYDINGS. I do not question that. I did not mean that we might not make a direct appropriation for the benefit of agriculture. I agree with the Senator thoroughly, but I do think we can make an appropriation through the equalization fee in such a manner that the constitutionality of our act

would be very much questioned. I think we could appropriate this sum of money for the benefit of agriculture. We certainly have that authority under the Constitution, because it is expressly granted therein; but I can also conceive how we might fix it in the form of a tax, and the Supreme Court has said the taxing power of the Congress must be within the limits of the express authority of the Constitution.

Mr. BORAH. I have my opinion about the constitutionality of the equalization fee, but I am not going to discuss the question of constitutionality now. I did that once before and with about the same effect that it would have now. I do not contend that the equalization fee is constitutional. I have not changed my view upon that point. But the minute that we make a general appropriation for this purpose we eliminate, in my judgment, every constitutional question which can be raised as to the bill save the one of making a general appropriation for this purpose, and in my opinion plenty of authorities can be shown to sustain that purpose.

Mr. TYDINGS. I agree with the Senator in that. I thank the Senator from Ohio for giving me an opportunity to insert in the RECORD the two paragraphs from the opinions of the Supreme Court.

Mr. FESS. I am very glad the Senator made the contribution.

Mr. HEFLIN. Mr. President——

The PRESIDING OFFICER. Does the Senator yield to the Senator from Alabama?

Mr. FESS. I yield.

Mr. HEFLIN. If I understood the Senator from Ohio, he would support a measure which would supply a revolving fund to which the farmers could have access, but eliminating the equalization fee.

Mr. FESS. My position is that the problem could be solved through marketing associations. I would be very willing to support any measure providing for an authorization of sufficient money to finance the cooperative associations, enabling them to take off the market, for the time being, the product that gluts the market, because it is thrown on it all at once.

Mr. HEFLIN. When this measure was before the Senate on another occasion, I gave one of the reasons the Senator now states as my reason for opposing the bill, that the members of an association had no right to tax those not in the association to raise money to pay for its control of all the producers.

Mr. FESS. I agree with the Senator.

I did not intend to speak at any length at all, other than just to make a statement of why I could not vote for the bill. I have been led into more or less desultary remarks that I did not intend to utter.

I would support any measure that provided for the handling of the surplus through marketing associations, assisted by the Government; but I do not want the Government to do it as a government; I want the associations to do it. I should be perfectly willing that the associations should be financed through loans from the Government just as farmers are financed through the farm-land banks. Such a plan would not put the Government into the actual buying and selling business.

But this bill goes further than that. Not only does it embrace the equalization fee, which is wholly objectionable to me. but it contains the insurance feature. If limited to the members of associations, I should not oppose at all that feature of the measure, but when it is extended to nonmembers that seems to me absolutely impossible, un-American, inequitable, and unjust from every standpoint.

Mr. BROOKHART. Mr. President——

Mr. FESS. I yield to the Senator from Iowa.

Mr. BROOKHART. The Senator from Ohio is willing to support a proposal to provide Government aid to handle the exportable surplus. That amounts to about $2,000,000,000 a year in the form in which it is exported. Is the Senator willing to vote for a sufficiently large appropriation to meet such a situation so that it will surely be financed?

Mr. FESS. Certainly I can not imagine that the amount would be anything like the figure which the Senator suggests; I do not think there is any possibility of that, because all it would be necessary to do would be to take the surplus off the market, if we knew what it was.

Mr. BROOKHART. The surplus, as I have stated, amounts to about $2,000,000,000 a year.

Mr. FESS. The Senator knows that in so doing cash down would not be required, nor would it be necessary to purchase all of the surplus.

Mr. BROOKHART. Take the surplus of cotton. If the surplus cotton should be purchased and dumped at once on the world market that would ruin the world market. If, having 60 or 65 per cent of the world's exportable cotton, we should hold it, we would control the world market, and would have no loss, but it would take much more capital to hold it.

Mr. FESS. There was one thing stated by the author of the bill, which was one of the strongest points he made for it, to the effect that the operation of the equalization fee would limit production—that it would regulate production. In other words, the equalization fee, in a sense, is a penalty, for it would not be operative unless there was a surplus; and the greater the surplus the more necessary the operation, and, therefore, if the penalty should be applied to the surplus it would have a tendency to reduce the surplus. I do not believe that argument is strong. I can see the basis of it, but I think the result will be a disappointment to my friends. I feel absolutely certain that if we go into any sort of guaranty, whether it be through an equalization fee or not, the one direct, inevitable result will be to increase the surplus instead of decreasing it; and if the surplus is the problem, then the one thing we ought to avoid is increasing it; we should decrease it.

The marketing associations would have the effect, I think, of limiting production; they would temper the amount of production upon the theory that if there should be a loss the farmer himself, who would operate the marketing associations, would suffer it, and he himself would be the cause of it. Therefore farmers speaking to the producers would have much more effect than for the Government to speak to the producers, as everyone must admit.

Mr. GOODING. Mr. President, the Senator from Ohio, of course, agrees that there is a farm problem?

Mr. FESS. Yes; indeed there is.

Mr. GOODING. And that we can not help the farmer unless we shall increase his prices. I agree with the Senator so far as he goes in relation to marketing, but he does not go far enough.

Mr. FESS. There is where I differ from the Senator.

Mr. GOODING. Without an equalization fee or without something that will raise the price to the farmer and give him the American price for the American cost of production he can not be helped at all.

Mr. FESS. Mr. President, the Senator from Idaho takes the view that the marketing associations can not solve the problem. I differ from the Senator as to that. If the marketing associations shall be financed by the Government, and supplied with capital, they can handle the problem. The only reason why heretofore they have not been able to handle the problem is that the associations could not be financed; they could not get the capital. The minute that we shall make the associations furnish their own capital, then they have got to enter into a profit-making business, and farmers will not join when a profit is made out of it. However, on the other hand, if capital can be loaned to the associations, then there will not be any doubt about the associations taking care of the situation. The Senator wants to go beyond that. He says the associations will not do it; therefore that the Government must do it. There is where I differ from him. The Government must not do it. Otherwise we shall have the Government handling all products of the American farm; and I think that would be most dangerous. It would produce an acute situation.

Mr. GOODING. The farmer is not asking anything more in this proposed legislation than the Government has already given the manufacturer in the Webb-Pomerene Act—the right to sell cheaper abroad than he sells at home.

Mr. FESS. Oh, no.

Mr. GOODING. So far as the wheat grower especially is concerned, unless we shall give him the world's price plus the tariff on wheat, we can not help the wheat grower at all; and he is a big factor in agriculture.

Mr. FESS. There is no dispute but that there is a farm problem; we all agree to that; and all of us know how the farm problem came about. During the World War the price of everything went up. Since the war the organizations of industry have limited production within the demands of consumption. That has been due to management.

If we could apply that system to the farm we would solve this problem immediately. Whenever we produce, no matter what it is, beyond the needs of consumption, the price goes down. If we have an unlimited supply of potatoes, potatoes are a glut on the market; and the same thing applies to apples, and to all other commodities. The Senator who is gracing the Chair at the present moment [Mr. SHORTRIDGE in the chair] will recall, I believe, that the raisin industry furnished a very outstanding example of the number of carloads that could not be sold at all. If agriculture could follow the lead of the manufacturing industry and limit production to the demands of consumption, the price would be stabilized; but that can not be done. The Senator from Oregon has expressed the thought over and over again—and I think it has been conclusively demonstrated—that the production of the farmer can not be regulated as is done in the case of manufacturers.

Mr. GOODING. Mr. President——

Mr. FESS. Just a moment. I admit that is a difficult problem. I think we can temper it. The Senator from Idaho and those who are supporting the bill are attempting to temper it by the equalization fee.

The other element of cost is labor. Labor is organized; labor maintains itself on a high cost level. In the case of industry, when the manufacture of an article is limited according to consumption, and the price of labor is maintained at a high level the price of the article is stabilized on a high level, and that makes the farmer pay a high price for the manufactured commodities he buys. That is easily seen. The question has come to us, Should we forbid regulation of production? We all say no; that would be an unsafe procedure. The question also arises, Should we reduce the price of labor in order to lower the price of manufactured commodities? There is a universal agreement that well-paid labor is the soundest economy, for it means a great purchasing power, and purchasing power is the measure of prosperity. Therefore, steady employment at a high wage level is sound economically, and therefore there is no desire to reduce the wages of labor. That means that the commodities the farmer buys, generally speaking, due to these two factors, are on a high price level and can not be brought down. We ought, therefore, to bring up the price of the commodities produced by the farmer if we can do so. The way I think it should be done is to control the marketing and also the production in the degree that we can; hold the commodity off of the market, avoid a break in the price, and feed it only as the market can take it. Then prices will be kept up. However, I should never do that by the process proposed by this bill; first, because it is not necessary, as I see it. Agriculture does need Government aid, but only in financing the marketing. I want the marketing left in the hands of the farmer himself. I do not want the Government to take it out of the hands of the farmer.

If the Government should take production out of the control of the farmer, then we would be forced into the position that a Government agency might say to the farmer how much he shall sow.

If we should undertake such a process in the case of one industry, we would have to do it with all others. I think it is a most serious question. I will join with anybody in endeavoring to reach a solution of the problem on the basis of marketing; but I can not vote for the pending measure. It is a remedy that I think is worse than the disease. There are some elements new in it, but they are vicious The insurance provision will certainly have to come out, for I can not see any equity in it at all; and certainly the protection prices for the packer and for the miller is wholly unjustified, and that certainly will have to come out. If the equalization fee were taken out of the bill and the insurance feature were amended to apply only to members of associations, I would vote for it.

Mr. SIMMONS. Mr. President, when the Senator says that the provisions of the bill mentioned by him must come out, does he mean that they must come out or there will be a veto of the bill? Is that what the Senator means?

Mr. FESS. I do not have any right to speak for the Chief Executive.

Mr. SIMMONS. What does the Senator mean then when he says that the features of the bill mentioned by him must come out?

Mr. FESS. Because they will break down if the bill shall be put in operation. So far as I can give my opinion, Mr. President, as to whether or not this bill will be vetoed, I do not see how a man of the economic judgment of the President of the United States could sign it, and I would be the most surprised man in this Chamber if he should sign it, although I know nothing about his attitude, and have not talked with him on the subject at all.

Mr. WHEELER. Mr. President, if the Senator from Ohio is of that opinion, I am sure the President will veto it, because I know of no man on the floor of the Senate who has the confidence of the administration to a greater extent than has the Senator from Ohio.

Mr FESS. No; the Senator is not quite fair with me. I know the cordial good nature of the Senator, but he is not fair with me.

Mr. WHEELER. I think the Senator from Ohio is too modest.

Mr. FESS. The Senator from Montana is hardly fair. I am giving merely my own opinion, and it must stand for that and that only.

Mr. SIMMONS. When I asked the question of the Senator a few moments ago as to a matter of which he spoke with such certainty and emphasis I thought he must refer to a veto of the bill.

Mr. FESS. I had no such reference.

Mr. SIMMONS. I recognize the fact, of course, that he is more entitled to be considered the spokesman of the administration upon this bill, at any rate, than anybody else on the floor of the Senate.

Mr. FESS. My very good friend, for whom I have such high regard, would not do me an injustice, because I know his character.

Mr. SIMMONS. I am trying to pay the Senator the compliment of being the special and selected spokesman of the President. Does the Senator regard that as a reflection upon him?

Mr. FESS. Certainly the President has only the spokesman of the leader of this body, and that is our friend from Kansas [Mr. CURTIS].

Mr. MCKELLAR. But, Mr. President, if he did happen to veto the bill, it would spoil part of a mighty good keynote speech; would it not?

Mr. FESS. Oh, no; nobody is making up a keynote speech.

Mr. WHEELER. There will be nothing in the keynote speech with reference to farm legislation.

Mr. CARAWAY. Mr. President, will the Senator yield to me?

The PRESIDING OFFICER (Mr. SHORTRIDGE in the chair). Does the Senator from Ohio yield to the Senator from Arkansas?

Mr. FESS. I yield to my friend.

Mr. CARAWAY. If the Senator now disclaims having any authority to speak for the President, then he is not trying to impress the Senate with the danger of having the bill vetoed, is he?

Mr. FESS. No.

Mr. CARAWAY. That is just an expression of opinion?

Mr. FESS. Purely so.

Mr. CARAWAY. Does the Senator think that is any better guess than it was when the Senator was running the President for reelection?

Mr. FESS. That matter has been thrashed out here so often that I do not want to take it up again.

Mr. CARAWAY. I remember the Senator's statement about it.

Mr. FESS. I will say to the Senator from Arkansas that the attitude of the Executive on a matter of legislation has absolutely no effect upon a vote here. It has no more effect with the Senator from Ohio than with the Senator from Arkansas. I agree with the Senator from Arkansas that every bit of legislation thrashed out on this floor should be thrashed out with reference to the legislative department of the Government, with very little regard to what the Executive will do. That is my view of it.

Mr. CARAWAY. Then why should the Senator inject into this discussion his belief that the President would veto the bill if it were passed?

Mr. FESS. Not because I thought it would deter any vote, but because I was answering the Senator from North Carolina [Mr. SIMMONS]. I wanted to be perfectly respectful to my good friend.

Mr. CARAWAY. Oh, of course; but was the Senator trying to brace up the President?

Mr. FESS. Not in the least. He does not need any bracing.

Mr. CARAWAY. I thought he did for making him run again. I thought the Senator had spent all last summer trying to do that.

Mr. FESS. If he had decided to run——

Mr. CARAWAY. He would not ask the Senator from Ohio?

Mr. FESS. He would not ask the Senator from Ohio or any other Senator, and he would run so fast that the rest of us could not keep in front of him.

Mr. CARAWAY. If he would not pay any attention to the Senator, why did he go around so persistently nominating him?

Mr. WHEELER. He will nominate him before he gets through.

Mr. FESS. Has not the Senator from Ohio a right to have his own play if he desires to?

Mr. CARAWAY. Oh, if he is just playing, I have no objection.

Mr. FESS. That is what he is doing.

Mr. WHEELER. He has only been talking about nominating him heretofore, but he will actually do the job in Kansas City.

Mr. CARAWAY. He will do it by himself, then.

Mr. FESS. Mr. President, I shall have to exercise my authority as a Senator not to allow my good friends here to put too much in my speech that I do not want in it. I yield the floor.

Mr. BROOKHART. Mr. President, there are two or three propositions advanced by the distinguished Senator from Ohio

[Mr. FESS] in the conclusion of his argument that I should like to mention.

First, he says he would be in favor of loans to aid these cooperatives to settle this great surplus problem.

I want to call the Senator's attention to the fact that we authorized loans for that specific purpose in the War Finance Corporation. The managers told me that they were practically without limit; that there was no reason why they could not have loaned them a billion dollars, or perhaps $2,000,000,000, if necessary; and yet it did not solve the farm problem. It was made worse.

Then we turned around, and we established in the law another system of loans, the intermediate credit banks; and that law specifically authorized lending up to $600,000,000. That law is in force right now, and yet we all concede that we have this farm problem on hand. So, after experiences like that, I can not see any solution in merely going around and doing over again the same thing that has twice failed, and on such a great scale.

The Senator's next proposition is that we would get an overproduction of farm products, and our surplus would increase, and instead of settling the surplus problem we would make it worse. I hope the Senator will read the report of the National Industrial Conference Board on that proposition.

Mr. FESS. I have read it.

Mr. BROOKHART. That report shows distinctly that there is a progressive decline in the surplus, and that even if stimulated by a stabilization of prices and an increase of prices it will still gradually fade out, until perhaps 30 or 40 years from now we will have no surplus at all.

Mr. FESS. The Senator will agree that that report opposed this bill, will he not?

Mr. BROOKHART. Yes; I will agree that it was made by the enemies of the farmers. I will agree to that.

Mr. FESS. Would the Senator, in his opposition to a loan, cut out of the bill the loan provided for?

Mr. BROOKHART. No; there is one reason why I would have a loan in the bill, and why I have it in my substitute, and that is the same reason why it is put in the Federal land bank law. In my amendment I have required these cooperatives to subscribe for cooperative stock in this institution, exactly as the farmers were required to do the same thing as they took out loans in the Federal land banks.

Mr. FESS. I stated that I had not read the Senator's amendment.

Mr. BROOKHART. Ultimately, I hoped we would get enough of those organizations and cooperative stock subscriptions to repay the Government, and take the Government out of this business. I have only contemplated doing this temporarily, until we could organize these cooperatives strongly enough and efficiently enough to handle the proposition and take it over.

Mr. FESS. I should like to ask the Senator a question there.

Mr. BROOKHART. I shall be glad to yield.

Mr. FESS. Suppose the bill becomes a law, and is put into operation? Does the Senator think it will be temporary?

Mr. BROOKHART. Which bill?

Mr. FESS. The present bill.

Mr. BROOKHART. No. The present bill makes no provision for changing into a cooperative; but the substitute which I have offered does make such a provision, and I did not discuss that feature of it in my speech the other day.

Mr. BORAH. Mr. President, may I ask the Senator a question?

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from Idaho?

Mr. BROOKHART. Yes.

Mr. BORAH. The Senator speaks about overproduction. I should like to ask the Senator if, in his judgment, the equalization fee can be so administered and utilized as to restrain overproduction?

Mr. BROOKHART. I think not. I think there is no difference between that and a direct appropriation.

Mr. BORAH. The reason why I ask that question is that I have understood that one of the serious objections to a direct appropriation as compared with an equalization fee was the belief that the administration of the equalization fee can be made effective to restrain overproduction, and I wanted to ask the Senator's opinion on that matter. I do not think so myself.

Mr. BROOKHART. That is provided in the bill by stopping operations on some article where they are producing too much. The board has to make a finding that they are overproducing, and I do not think this board would ever make any such finding.

Nobody can tell whether there would be overproduction in a year or not; and I think myself there is no regulation of this production by equalization fee. I think the growth of population is gradually regulating the surplus proposition, and I think in 25 or 30 or 40 years from now there will be no surplus problem in the United States; there will be no surplus; but, as I said the other day, I do not want to stay in bankruptcy 30 or 40 years.

Mr. FESS. The Senator means by that that the demand is going to increase more rapidly than the production?

Mr. BROOKHART. It is increasing more rapidly and has been for many years.

Mr. FESS. I agree with the Senator.

Mr. BROOKHART. The per capita production is steadily decreasing on practically everything all the time. It is a slow rate, but it is decreasing.

Mr. FESS. I believe that within a limited time we will be importing foodstuffs.

Mr. BROOKHART. We are importing an immense amount of certain foodstuffs now, a vast amount, almost as much as we are exporting; I do not remember exactly.

Mr. BORAH. We are now importing farm products to the amount of more than two billions and a half a year.

Mr. BROOKHART. That is more than we are exporting.

Mr. BORAH. Yes; it is.

Mr. BROOKHART. If the Senator is correct—and I have no doubt he is correct—part of that consists of things we can not produce, though a considerable portion of it we can produce.

Mr. McLEAN. Mr. President——

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from Connecticut?

Mr. BROOKHART. I yield to the Senator.

Mr. McLEAN. I think we have had one short crop of wheat in the last 125 years. There has been a surplus every year for more than a century.

Mr. BROOKHART. Yes; but it was only eighty or ninety million bushels—a comparatively small amount.

Mr. McLEAN. Does the Senator think it would tend to decrease the surplus if we should enact a law that would enable all the wheat growers to produce wheat at a profit?

Mr. BROOKHART. As I said the other day, if we should enact such a law as to wheat alone, out in Iowa we would quit corn right away and go to wheat; and we can produce more wheat than anybody else. We have the best soil and the best chance to do it; but if you protect corn and livestock products, we would rather produce those than wheat. They are still more suitable to our soil and to our climate, and we will not go to wheat if you protect them all alike. That is what I have proposed to do in my amendment, and that is what the Senator from Oregon proposes to do in his bill.

Mr. McLEAN. But if you protect corn so that a profit will be insured, and protect wheat so that the growers of wheat are sure of a profit, and so on down the list, why will they not increase the acreage just as they did in war time? They increased the acreage on wheat 30,000,000 acres in war time.

Mr. FESS. Forty-five, was it not?

Mr. McLEAN. Thirty million.

Mr. FESS. Forty-five million all together.

Mr. BROOKHART. I have forgotten the figures; but they increased that acreage by reducing the pasturage, and reducing, therefore, the production of livestock——

Mr. McLEAN. Certainly.

Mr. BROOKHART. And switching from one to the other; but we propose in my amendment to this bill, to take care of all of these products alike that have an exportable surplus, so that there will be no occasion any longer to switch from one to the other.

Mr. McLEAN. The Senator knows that we could produce cotton and wheat and corn and all the other foodstuffs in this country in sufficient quantity to support twice the present population, and more, too, if there were any money in it.

Mr. BROOKHART. If there were enough farmers to do it, and if we had enough land, that could be done; but there is the National Industrial Conference Board's report, making an analysis of every product, and every item shows that the per capita production is declining every year. The population is growing considerably faster than agricultural production of the United States, and even the increased efficiency is offset, and everything else that goes to measure up the production of agricultural products is declining in proportion to the population of the United States.

Mr. McLEAN. That is very true; and so we perceive at once the difficulty of controlling the price of a product unless we can control the quantity produced and also the amount consumed. We must control both if we are to produce the desired result.

Mr. BROOKHART. Manufacturing is not doing that. It is controlling the surplus that it is exporting.

Mr. McLEAN. That may be true; but I think the Senator stated the other day that something like 40 per cent of the corporations in this country—and I take it most of them are manufacturing corporations—lost money last year.

Mr. BROOKHART. I said the condition was worse than that. I said that they lost money for the last five years, because the agricultural depression has at last reached up to the corporations, and they are now failing because there is no buying power in agriculture to keep them going.

Mr. McLEAN. They are failing because they can not sell their product, but they do not come to the Government to get aid. I do not say that because I would not like to see this problem solved.

Mr. BROOKHART. They do not come to the Government to get aid? Why, they are the first fellows to squeal for aid. They howl for a protective tariff louder than anybody howls; and they have always gotten it.

Mr. McLEAN. But the Government has never given them a tariff to raise the price of their surplus. If they have a surplus, they have to take care of it themselves. What you want to do is to put a bounty on surplus.

Mr. BROOKHART. I would have no objection to that. I can see how that might relieve the situation, and if the Democratic side gets up the nerve, as they have threatened to do, to offer a debenture bill, as the National Grange has asked, I will vote for it, because that would provide the bounty the Senator speaks of, and it would give us some relief. But I do not want to leave this question of protecting these manufacturers without another word, because the Senator from Indiana himself [Mr. WATSON] puts a statement in the RECORD from Judge Gary, of the United States Steel Corporation, saying that they sell their surplus abroad at a loss, or for whatever they can get for it.

Mr. McLEAN. That is precisely what I say.

Mr. BROOKHART. But they charge the domestic market; under tariff protection, enough to make up for that loss, and to take enormous, even extortionate, profits from the people of the United States besides.

Mr. McLEAN. I do not know about that. The farmer has the same privilege that the manufacturer has in disposing of his surplus.

Mr. BROOKHART. The farmer has no method of financing his surplus. His finances are controlled by a banking system in the hands of the people on the other side of the counter from the farmer, and he does not have control even of his own deposits, under that system. There are no finances he can reach. This intermediate credit bank does not work.

Mr. McLEAN. The Senator has just stated that the facilities for the extension of credit are ample. I have understood the Senator to say several times on the floor of this Chamber that one of the main difficulties with the agricultural situation was that Congress had been too kind to the farmer, that he had borrowed too much money, and it was time to stop that, because the only result was that he was getting further and further into debt, and he could not get out.

Mr. BROOKHART. I do not think the Senator has ever heard me say those words.

Mr. McLEAN. That in substance.

Mr. BROOKHART. It is not more loans I want; it is better prices for the farm products; and the farmer is entitled to that, so he can pay his loans. I say that the farmer is the greatest producing manufacturer in this country, produces the things that sustain life itself, and he is entitled to a profit on his capital investment, and he has not had it since 1920.

Mr. McLEAN. The farmers in Iowa are pretty prosperous now, are they not?

Mr. BROOKHART. They are not, and they have not been since 1920.

Mr. McLEAN. The Senator's statement does not agree with statements I have had called to my attention.

Mr. BROOKHART. I would like to hear the statements to which the Senator refers, and I will tell him something about them.

Mr. McLEAN. I will ask the clerk to read what I send to the desk.

The PRESIDING OFFICER. The clerk will read.

The legislative clerk read as follows:

[Baltimore Sun of July 31, 1927]

WHAT'S THE MATTER WITH IOWA?

So much lamentation comes out of Iowa that anything which partakes of good cheer is read with surprise. Its politicians are so busily engaged in schemes to make the farmer prosperous by new laws that they seem to overlook what is happening behind their backs. While they cry ruin, the Iowa Daily Press Association is spending money to prove that the State is getting along swimmingly.

Iowa's income from agricultural products in 1926, as advertised by this organization, was $719,145,000, approximately $60,000,000 more than the year before and $230,000,000 higher than in 1921. Hogs, the greatest single factor in this showing, represented $305,750,000. Since 1921 income from livestock and livestock products has risen 60 per cent. Last year, we are told, but 15 per cent of agricultural income came from the sale of grain, the price of which constituted Iowa's chief complaint, while nearly 86 per cent came from livestock and its products.

The Equitable Life Insurance Co., which has loaned more than $50,000,000 in the State, reports that "the majority of farmers are making a profit." The secretary of the Federal land bank at Council Bluffs, which has out on farm mortgage more than $68,000,000, says that delinquencies on installments 60 days overdue amount to but $15,900. The Daily Iowa Press Association declares that this reflects the experience of virtually all companies with extensive loans in Iowa.

If statistics and reports of this character are difficult to reconcile with the lugubrious accounts coming from political spokesmen for the Corn Belt, we recall that an optimistic fellow broke up a particularly gloomy meeting there by citing similar data and asserting that if Iowa farmers were going to the poorhouse they were going in their own limousines.

Mr. BROOKHART. Mr. President, the statement which the Senator has just had read is even believed by the Senator himself, from the way he laughs. That idea is spread all over the eastern part of the country, and the people there take it for granted that those figures show a condition of prosperity in the State of Iowa.

Iowa is the best agricultural spot on this big, round earth. You can not lay its map down on any other spot on this earth that produces as much out of the soil as does the State of Iowa. Yet since 1920 she has received a price for those products so low that she could not pay her taxes and expenses of operation. Her land values have declined nearly $3,000,000.

Mr. McLEAN. How much did they go up during the war?

Mr. BROOKHART. The price index of Iowa land at the peak reached 213. The price index of all products in the United States at the same moment was 241. Other products have gone down but little, and Iowa land has gone back from 1920 to 1925 from $227 an acre to $149 an acre, and that decline has continued right up to this moment.

Mr. McLEAN. The price of land in Iowa is much higher to-day than it was before the war.

Mr. BROOKHART. It is not. It is at this moment much lower than it was before the war.

Mr. CARAWAY. And every other product is higher.

Mr. BROOKHART. And every other product that Iowa is buying is higher. There was a statement published about Iowa lands to prove that we had prosperity. It said that 52 per cent of the farms in Iowa have no mortgages on them. Of course, they have not. Many of them have been foreclosed and the mortgages canceled by the foreclosures, but that fact was not stated. There ought to be no foreclosures in Iowa. I practiced law 30 years in Iowa and did not know what a foreclosure of a mortgage was, and handling such business now is almost the principal business of the lawyers.

Mr. President, I want to tell the Senator something about this Iowa Daily Press Association. I had more than 90 per cent of that association fighting me out in Iowa in my campaign. I had all the chambers of commerce against me, because they hooked up with the United States Chamber of Commerce, which delights in publishing this sort of stuff about the situation. I had the Bankers' Association against me. I do not mean all the bankers, because some of them have figured out some of these things. I do not mean that all the members of the chambers of commerce were against me, but even the chamber to which I belong was against me, in its organization.

I had all that situation, and then I was running against the most distinguished citizen of the State, and I was able to carry only 85 out of 99 counties. I carried only 10 out of 11 districts. The people out there know what is going on in Iowa, and now is as good a time as any to let the people in the East know that they no longer are going to be able to put this thing over on us in this way. Something is going to happen if they persist in the discrimination that exists against agriculture.

Mr. NORBECK. Mr. President, I would like to ask the Senator if he thinks Secretary Hoover will get any more votes in Iowa than the Senator did?

Mr. BROOKHART. Secretary Hoover will not get any more than CHARLES G. DAWES will.

Mr. McLEAN. Mr. President, I will let the Senator from Iowa and the Senator from South Dakota settle that question between themselves. I simply want to call the Senator's at-

tention to the fact that the article which I had read contained information based upon reports prepared by citizens of Iowa.

Mr. BROOKHART. Who are those citizens of Iowa? Those are the ones profiteering off of the farmers of the State. Those are the men selling advertising. They go to the manufacturers of the East and say, "Advertise in our papers. See what a great amount of stuff is being produced out in Iowa. Come and get it and take it away from our farmers, so that more of the mortgages will be foreclosed." That is the crowd that publishes that kind of stuff against Iowa. I am not afraid of that crowd. I like to have them against me.

Mr. McLEAN. This statement contains a statement of the amount of money received for certain crops in Iowa. Are those figures incorrect? Are the statements contained there incorrect?

Mr. BROOKHART. I am not able to state. At one time they published a statement as to the amount of corn and then the number of hogs and the number of cattle, and added them together, but never figured out how much of the corn was fed to the hogs and cattle.

Mr. McLEAN. Then the Senator does not know whether the figures are correct or not.

Mr. BROOKHART. That is the kind of publicity that crowd has put out.

Mr. McLEAN. But if the statements are correct, there is no harm in publishing them.

Mr. BROOKHART. No; but it does not give the other side of the account; it does not give the cost of production or the other side.

Mr. NORBECK. Mr. President, I want to ask the Senator if it is not common for them, in submitting statistics, to ignore the fact that the purchasing power of money has been greatly reduced?

Mr. BROOKHART. Yes.

Mr. NORBECK. And, therefore, a comparison of prices received now with those received 10 years ago is very misleading.

Mr. BROOKHART. That is very true.

Mr. BORAH. Mr. President, I would like to ask again how we are going to change this inequality between the manufacturer and the farmer if we are going to give the manufacturer his protection free and make the farmer pay for his?

Mr. BROOKHART. On that proposition I am in accord with the Senator's suggestion. I think the Government of the United States owes it to the farmers to bring about this equality out of the Treasury of the United States. When we turned the railroads back, we did not hesitate to put a provision in the law guaranteeing the operating expenses and the war-time profits for six months; and the operators of those railroads went out then and increased the operating expenses fourteen hundred and eighty-five million dollars the first year after the roads were turned back, and we went into the Treasury and wrote our check and paid $529,000,000 to make that guaranty good; and the Senator from Connecticut never squawked once about that being socialism, or anything of the kind. That was perfectly good business when that happened, and he supported that bill and supported that subsidy to the railroads of the United States.

Mr. McLEAN. Of course, the Senator knows that that subject has been debated in this body a great many times; and certainly there is no analogy between the situation presented by the railroads and the situation now presented by agriculture.

Mr. BROOKHART. No; there was not an analogy, because the Government took over wheat, for instance, and made a profit of $59,000,000, and tucked that away in the Treasury. That is why there is no analogy.

Mr. McLEAN. The Senator knows that there is no foundation for the claim that there is an analogy between the tariff which benefits the manufacturer and the tariff which benefits the farmer, in that the farmer does not get the benefit of the tariff and the manufacturer does; because, Mr. President, when a manufacturer gets a surplus, he has to take care of it himself. A tariff is imposed for the purpose of stimulating competition in this country in the production of the necessities of life.

Mr. BROOKHART. The tariff does take care of his domestic market, though.

Mr. McLEAN. Just a minute. When the manufacturer gets a surplus he has to look out for it himself. He does not come to Congress and ask Congress to take money from the Treasury for the purpose of pegging the price of his surplus. When you propose to assess—I do not care how you phrase it—when you propose to get money out of the Treasury for the purpose of boosting the price of the surplus that scheme will be fatal, because it encourages, it can not help but encourage, and increases production, and that is just what you do not want.

Mr. WHEELER. That is one of the things which is troubling the woolen mills in Massachusetts.

Mr. McLEAN. The trouble with the woolen mills is that the tariff is not high enough.

Mr. WHEELER. They wrote it themselves.

Mr. McLEAN. But it was not high enough. Senators on the other side of the Chamber would not let them have sufficient protection. I want to say now that the highest rates in the tariff act of 1922 are the lowest in so far as the element of protection is concerned. That is the trouble in the country to-day. The tariff is not high enough on many industries to give adequate protection—that is, enough to equal the difference between the cost of production here and abroad.

Mr. BORAH. A short time ago the President was called on, under the so-called flexible tariff law, to increase the tariff upon certain products. The President increased the tariff. The Treasury of the United States lost several million dollars by that increase. The parties for whom the increase was made received an increase in the price of their product. What the President's order did was to deprive the Treasury of a large sum of money for the benefit of a particular product. What is the difference in principle between that and making an appropriation direct for the purpose of increasing the prices of a product?

Mr. McLEAN. In the first place the producers of an article that called for an increase found themselves against foreign competition which would have driven them out of business, if it had not already driven them out of business, if they did not get the increase. We will assume that this increase enables them to produce that article in this country and sell it in this country to such an extent that they find themselves with a surplus on their hands. They have to take care of that surplus themselves. The Government does not aid them there.

Mr. BORAH. I am now speaking of the fact that the Government of the United States yielded its right to an income of several million dollars a year for the purpose of aiding an industry. In other words, if the President had not made the raise in the tariff, the Treasury of the United States would have been some several million dollars better off. What he did was to deprive the Treasury of so much money for the benefit of a particular product.

Mr. McLEAN. It may be that a part of the benefit which would result to the American people was by reason of the maintenance of an industry here which, in the long run, might produce a surplus, and the effect of the surplus might reduce the price of the product down below where it was when the tariff was raised. That has happened many times. I think the price of steel rails to-day is just about what the tariff was when it was first imposed. The effect has been the same with regard to a great many other products, tin, and other essentials.

I know now that the dairymen in the country are trying to get a slight increase on milk and cream because of the competition coming in from Canada. It seems to me that that is an advisable thing to do. It is better than to so cripple an industry in this country that sometime we will be dependent upon the Canadian producers for milk and cream. But if the dairymen in this country produce a surplus, they have to take care of it themselves. They would like to come in under this bill, but it is impracticable. They can not do it.

The Senator must see that if we boost the price of the feedstuffs which the dairymen use, we are crippling the dairy industry in the country. That is the trouble with the bill or one of the main troubles with it. There is no agricultural class, in the sense that we have a common interest. On the contrary, there are as many classes of agriculturists as there are colors of the rainbow, and a good many more, and the minute we increase the prices of one agricultural industry we cripple perhaps another industry.

Mr. BORAH. That is precisely what the protective tariff does. If we raise the price of cotton goods and such things, we are increasing the price which somebody has to pay for them.

Mr. McLEAN. If we increase the price of cotton in this country; of course, cotton is not a good illustration, because we do not import cotton.

Mr. BORAH. We import cotton goods.

Mr. McLEAN. Yes. I want to impress the Senator that the producer of cotton goods, if he finds himself with a surplus on hand, must look out for himself. He can not come to Congress and get an appropriation to take care of the surplus and continue to increase that surplus, and still produce the article at a profit.

Mr. SIMMONS. Mr. President, will the Senator yield to me for just a brief statement?

Mr. BROOKHART. Mr. President, I must decline to yield further until I can answer the Senator from Connecticut.

The Senator from Connecticut asked a question that I want to answer before I forget it. He said the tariff, while it protected the home market, did not provide funds to take care of the surplus; that if a manufacturer had a surplus he had to look out for financing and taking care of it himself. I want to answer the Senator's question. I want to say that by law, sponsored and supported by the Senator from Connecticut, the Government of the United States went into the banking business for the manufacturers of the United States and not only established national banks but established a Federal reserve bank, an overhead bank, for those national banks.

The Government by law created the Federal Reserve Board as a Government board and its officers are appointed by the President of the United States and confirmed by the Senate of the United States. The operation of that board, as predicted by the Senator from Virginia [Mr. GLASS] when he presented the bill to the House, was that it would reduce the speculative loans and turn the surplus credit of the country over to more legitimate business. Now, we have seen those speculative loans, which were then $766,000,000 and described by him as a cancer, grow into $4,000,000,000. So that the commercial business of the country, the manufacturing business, the speculating business, have asked the Government, by a law, to furnish them money. They have taken the surplus credits of Iowa itself away from Iowa, and have them down in New York now in the speculative business, and backing the exports of the surplus of the manufacturers, and they get a low rate of interest and the farmers have got to pay a high rate of interest if they use their own deposits.

Mr. McLEAN. The Senator does not admit that anybody in Iowa has any money to loan, does he?

Mr. BROOKHART. Yes; we have some manufacturers out there.

Mr. McLEAN. Then somebody is prosperous in Iowa?

Mr. BROOKHART. Yes; something is prosperous. It is not the farmers. While their land went down $3,000,000,000, railroad stocks went up more than $3,000,000,000 in the United States. That is what happened all along the line.

Mr. McLEAN. The Senator knows there are some 30,000 banks in the country.

Mr. BROOKHART. Yes; and I know that about 400 of them out in Iowa have failed.

Mr. McLEAN. The Senator has just stated that some of them have made money and were loaning it outside the State of Iowa,

Mr. BROOKHART. I do not think any bank in Iowa is making money now. They are sending their money down to New York and getting 1¾ to 4¼ per cent for it. About half of it is going that way.

Mr. McLEAN. The Senator just remarked that money was going from Iowa to Wall Street to be used for speculative purposes.

Mr. BROOKHART. That booms stocks, and that means a higher cost of living to those who pay the profits on the stocks.

Mr. McLEAN. Let us see if we can follow out this idea. If that is true, I want to call the Senator's attention to the fact that we have some 30,000 banks in the country, some in Iowa, and some of them make money. I think it very likely, too, that other activities in Iowa make money. Just how are we going to prevent the banks in Iowa from loaning their money wherever they please?

Mr. BROOKHART. I have introduced a bill providing an amendment to the banking act which will prevent them from loaning it for speculation in New York or anywhere else. I do not believe the Government of the United States has any right to establish by law a credit system for gambling.

Mr. McLEAN. Does the Senator think Congress would have the power to prohibit a State bank from loaning its money anywhere it pleased?

Mr. BROOKHART. It would have the power to deny it the use of the United States mails if it did that sort of thing, and I have that sort of a provision in my bill. Come again! [Laughter.]

Mr. McLEAN. The Senator certainly has quite a bill. I have not read it all yet.

Mr. BROOKHART. Yes. I have been trying to figure this out from the standpoint of the farmers, to give them a square deal in credits, a square deal in marketing, a square deal in railroad rates, a square deal in the prices of the things they have to buy, and that is why I have seen those different phases of the situation. The trouble with the Senator from Connecticut is that he never sees it except from his particular little standpoint.

Mr. McLEAN. Connecticut went through experiences much more serious than Iowa has ever suffered, and that was in the days when agriculture was a very important industry in Connecticut. I will say to the Senator that when Iowa began to produce meat and grain, Connecticut had to stop; we could not compete.

Mr. SIMMONS. So Connecticut went into the manufacturing and insurance business?

Mr. McLEAN. We produce everything that is salable now. We did not come to Congress for help.

Mr. SIMMONS. No; but they came for a tariff, and that was all they needed.

Mr. BROOKHART. When Connecticut needed help she came to Congress for a tariff and got it. Congress helped Connecticut out and that raised the prices of her products, and Iowa paid the increased prices.

Mr. McLEAN. Oh, Mr. President, we can not all talk at once.

Mr. SIMMONS. I submit that the Senator from Connecticut has had very large latitude in his interruptions. I have been trying for some little time to just get in one word, but the Senator from Connecticut will not let me have the opportunity.

The PRESIDING OFFICER. The Senator from Iowa has the floor. To whom does he yield?

Mr. BROOKHART. I yield now to the Senator from North Carolina.

Mr. McLEAN. Yes; let the Senator from North Carolina get in his word now; but first I want to say to the Senator from North Carolina——

The PRESIDING OFFICER. To whom does the Senator from Iowa yield?

Mr. BROOKHART. I yield to the Senator from North Carolina.

Mr. SIMMONS. Mr. President, I think, if the Senator will pardon me, that we will find this line of cleavage, upon the question of whether prosperity exists, about the same throughout the entire country.

Mr. BROOKHART. I think the Senator is correct. The agricultural situation is the same in nearly all States.

Mr. SIMMONS. That is what I was going to say.

Mr. BROOKHART. It is a general discrimination against agriculture.

Mr. SIMMONS. It is in every State in the Union. The agricultural conditions, unless there are some special lines of agriculture which are highly protected and whose protection is absolutely effective, are languishing. The prices of their products have gone down and the prices of their land, measured in the value of the dollar to-day as compared with the dollar before the war, are very much lower than they were before the war.

Mr. BROOKHART. Very much; scarcely half the value.

Mr. SIMMONS. We find the manufacturers and the railroads and the great corporations that have the benefit of the tariff and the trust combinations crying "prosperity," and they are prosperous.

Mr. BROOKHART. They are squeezing out a lot of the little fellows.

Mr. SIMMONS. It is generally impossible to get them to take a fair, equitable view of the condition of agriculture.

Mr. McLEAN. Mr. President, will the Senator permit an interruption?

Mr. SIMMONS. I have only the permission of the Senator from Iowa to interrupt him.

Mr. BROOKHART. I will yield to the Senator from Connecticut for a question only.

Mr. McLEAN. The Senator knows very well that the textile industry in New England, especially in the cotton-goods line, is suffering a period of depression. He knows that in large measure it is due to competition from North Carolina. The Senator has some of the largest cotton mills in the world in North Carolina to-day.

Mr. McKELLAR. Mr. President, will the Senator yield to me?

Mr. McLEAN. They pay in North Carolina less wages than we do, but we do not come to Congress and ask Congress to interfere with them. We have to take care of our surplus as best we can.

Mr. McKELLAR. Mr. President, if the Senator will permit me——

Mr. BROOKHART. I yield to the Senator from Tennessee.

Mr. McKELLAR. I want to say just a word in answer to a statement made by the Senator from Connecticut. One of the great reasons why there is a depression in the cotton industry in that State and in North Carolina as well is because the farmers, who comprise the great bulk of the population of the country, are in such a condition that they can not buy the goods.

Mr. BROOKHART. The Senator is absolutely right.

Mr. SIMMONS. I was going to say that, of course, I recognize the fact that we have conditions in the South much more favorable to textile manufacture than exist in New England. We have the raw material right at our door; instead of union labor we have nonunion labor; instead of strikes and lockouts we have harmony between our laborers and our manufacturers; and the manufacturers of New England are pretty rapidly moving toward the South for reasons that are perfectly apparent.

Mr. BORAH. Mr. President——

The PRESIDING OFFICER. Does the Senator from yield to the Senator from Idaho?

Mr. SIMMONS. I have no control over the debate at all. I am simply interrupting the Senator from Iowa for the purpose of trying to make a statement.

Mr. BORAH. For North Carolina?

Mr. SIMMONS. No; not for North Carolina. I always speak for North Carolina when I have an opportunity or when occasion requires it, but occasion does not require it. North Carolina has attained to an eminence which does not require any boosting upon this floor any longer or any boosting in the country at large. North Carolina is taking care of herself.

Mr. McLEAN. How about the farmers of North Carolina?

Mr. SIMMONS. The farmers of North Carolina are not prosperous. The farmers of North Carolina are, like the farmers all over the United States, unprosperous. I happen to be one of them myself; and I want to say that I am probably just as good as the average farmer and I have a representative, anyway, about as good as the average, who manages my farm, and I have had no actual net income from that source since 1921.

Mr. McLEAN. I understood the Senator from North Carolina to say that North Carolina needed no boosting.

Mr. SIMMONS. I say that as compared with New England and the remainder of the States of the country, North Carolina and the South as a whole need no boosting.

Mr. McLEAN. Yes; but the farmers need boosting.

Mr. SIMMONS. The farmer does not need boosting, but he needs help; he needs to be put upon something like a parity in the price of his products with the price of commodities which he has to buy. In a section of country which is largely a one-crop section, our product being chiefly cotton, we have to buy very largely the things that we do not raise from elsewhere. We have to buy from manufacturers largely, and we have to buy their manufactures protected by a high tariff duty. Consequently, we have to pay a very high price, while we get only the low price of a nonprotected product.

However, what I meant to say was that the cleavage as to prosperity is between the farmer and the man who is engaged in railroad work or in manufacturing industry. Wherever agriculture is segregated, there is no doubt about the consensus of opinion being that agriculture is in a condition that requires some legislative consideration. I do not mean to say it needs a tariff, but it does need legislative consideration.

The Senator has talked about the manufacturer being able to take care of his surplus. Undoubtedly a protected manufacturer is able to take care of his surplus. He can sell it abroad for one-third or one-half of what he gets in this country, but that does not affect the price that he obtains for the remainder of his product in the American market 1 cent. On the contrary, if the cotton producers of this country produce 6,000,000 or 7,000,000 bales of cotton more than the world demands and throw it upon the markets of the world, the price is broken, not only abroad, but it is broken here at home.

Mr. McLEAN. Mr. President, the Senator from North Carolina knows that nearly all of the foreign nations of consequence have enacted antidumping laws, and therefore the manufacturer of this country can not any longer dispose abroad of his surplus for one-third of its domestic price.

Mr. BROOKHART. There are only 16 countries that have enacted such laws, and that does not affect the situation. I showed that very fully the other day.

Mr. SIMMONS. Mr. President, there are some countries which have, as we have, antidumping laws, but still there are a great many other countries that are open and that have not any such antidumping laws, and the manufacturers are selling in those markets. But if they were excluded from those markets they have the power to control and to regulate the amount of their surplus.

Mr. BROOKHART. Absolutely.

Mr. SIMMONS. And if by some miscalculation they produce more than the markets of America demand, and if they have no foreign market in which they can dump the excess, they have the ability to hold that small quantity, because they can keep it reduced to a small quantity. But the farmers have no control over the quantity which they produce at all; their product is determined by the season; it is determined by pests; it is determined by floods; it is determined by a great many different conditions over which the farmers have absolutely no control.

Mr. McLEAN. That is very true, and because it is true Congress can not remedy the situation. The surplus of the farmer depends so intimately upon the weather that it is impossible for any board to regulate the production of crops so that there will be an even total from year to year.

Mr. SIMMONS. Let us take wheat, for instance. Congress has put a pretty high tariff on wheat, I believe, and a higher is, perhaps, desired on it; I do not know.

Mr. BROOKHART. There is now a tariff of 42 cents on wheat. That does not raise its price to the cost of production right now; that is not enough. There is only a tariff of 15 cents on corn.

Mr. SIMMONS. It would not make any difference how much the tariff was on wheat. If there is a surplus of wheat in the world's market, the tariff would not protect wheat in the slightest degree, would it?

Mr. BROOKHART. Not at all. I have the figures here on my desk showing No. 1 northern wheat running from 15 to 20 cents a bushel higher all last season at Winnipeg, Canada, than it was at Minneapolis, Minn.

Mr. SIMMONS. Now, let us take the case of the wheat farmers. Suppose all the wheat farmers of this country were to come together and say, "We have a surplus this year of a million bushels of wheat."

Mr. BROOKHART. They have a surplus of more than a hundred million bushels.

Mr. SIMMONS. I started to say a hundred million bushels of wheat. "We will not dump that on the markets of the world; we will withhold it from the markets of the world." If there is without that a world oversupply from other sources, from other countries where wheat is grown, will that be any protection to the price of wheat to the farmer here, notwithstanding he has withdrawn his little surplus here in the United States?

Mr. BROOKHART. It would increase his local price up to the tariff level.

Mr. SIMMONS. It would increase it up to the tariff level, yes; and no further.

Mr. WATSON. But no higher.

Mr. SIMMONS. No higher.

Mr. McLEAN. Mr. President, as the Senator knows——

Mr. SIMMONS. Now, with a tariff on the wheat, if the farmers were permitted to sell their surplus in the markets of the world and the markets of the world were not glutted, there would be produced a different condition altogether.

Mr. McLEAN. The Senator knows what the result of Great Britain's attempt to valorize rubber has been.

Mr. BROOKHART. Mr. President, I think I will have to take the floor again. There is one other proposition I wish to suggest to the Senator from Connecticut, and then I will yield the floor.

Mr. McLEAN. The Senator knows what the result of the attempt to valorize coffee has been in Brazil. It might be possible to take care of the surplus of a year or two, but——

Mr. BROOKHART. I will have to decline to yield for further discussion.

Mr. McLEAN. But very soon the same result would follow your attempt to take care of the surplus of wheat. It can not be done that way.

Mr. SIMMONS. The point I want to make is that it does not make much difference how high the tariff is on wheat, if there is an overproduction in the world the price of wheat in this country is coming down to the world's price.

Mr. BROOKHART. That is the fact.

Now, Mr. President, I want to make a comparison between agriculture and manufacturing and then I am going to close. In agriculture there are about $60,000,000,000 invested, since the amount was squeezed down during the deflation, and there are about 12,000,000 workers engaged in farm work, not including the women and children who work the year around. There are about $40,000,000,000 of capital invested in manufacturing, only about two-thirds as much as in agriculture, and there are employed about 9,000,000 workers—the number was 8,778,000 the last time I checked the figures. With an investment in agriculture of $60,000,000,000 and 12,000,000 workers, there has been produced a gross value since 1920 of less than $12,000,000,000 per year on an average. On the other hand, the $40,000,000,000 of capital invested in manufacturing and the 9,000,000 workers have produced a gross value of nearly $60,000,000,000 a year.

That is not a fair comparison, and I want to make it fair. There is a bigger raw material bill for the manufacturer than there is for the farmer; but 27 per cent of the $12,000,000,000 in the case of agriculture is raw material. It represents seed, and work animals, and breeding animals, and things that must

stay on the farm in order to operate the farm and which never get into the income account.

There is still a bigger percentage in the case of manufacturing, but to reduce the two percentages to about the same point, and taking $16,000,000,000 from the $60,000,000,000, we still have a gross production of $44,000,000,000 in the case of manufacturing, with two-thirds the amount of capital and three-fourths the number of workers as compared to agriculture.

It is said that the cause of the high price of manufactured products is the high wages of labor. I went to the Labor Department and added up the wages of those laborers, and I found out how much labor receives. It is only $11,000,000,000 out of the $44,000,000,000. The other $33,000,000,000 goes somewhere else—either into raw material or capital account or for operation and profits. I wish to ask, Mr. President, what chance have the farmers of the United States to achieve prosperity when they have to exchange $12,000,000,000, representing their gross production, into $44,000,000,000, produced by three-fourths of the workers and two-thirds of the capital of agriculture?

This discrimination is permanent, and is caused by law. I say that the interstate commerce law is the cause of, perhaps, 25 per cent of it in ordinary times. I have only put it at 10 per cent in the present situation, because of the drastic deflation of the farmers under the Federal reserve banking system. The law gives to the railroads a valuation by law and then a return by law, by the command of law itself. It may be said it is not a guaranty, but it is higher than a guaranty; it is the command of the law itself to the commission. Then there is the banking system, the credit system, giving a monopoly of the deposits of the people of the country to the State and National banking systems, and then establishing a Government overhead banking system in which the local banks are federated and united together.

They earned 8.34 per cent the last time I checked the figures, while the National Industrial Conference Board only claims a return on farm property of 1.7 per cent, and in that 1.7 per cent they allowed no adequate compensation—less than $700 a year—for the farmer's work, and they allowed no depreciation for his buildings, his fences, his work animals, his breeding animals, and his soil. If they had allowed those items there would have been no income to agriculture whatever. Yet by law we have given the banking interests this special privilege over the farmers, even taking their own deposits away from them where they can not borrow them for use in their own business any longer.

Not only that, but there are the public utilities, the courts giving them 7 per cent, which is the least return I have heard under any decision. The American people, according to Mr. Hoover's own figures, are only producing 5½ per cent of wealth increase in this whole country, with all the labor, with all the capital, with the increase in property values, with the decline of the dollar, and everything else. Then we have our tariff protection that enables the protected manufacturer to fix the price of his products at his factory. He has no foreign competition. Then we have patent protection that gives the patented industries special rights created by law. All these privileges have been created by law; but when the farmers come here and say that Congress owes it to them by law to create an export corporation that will relieve them of this discrimination, that is a socialistic scheme, and the East can not stand for it.

Mr. BORAH obtained the floor.

Mr. McKELLAR. Mr. President——

The PRESIDING OFFICER. Does the Senator from Idaho yield to the Senator from Tennessee?

Mr. BORAH. I do.

Mr. McKELLAR. A group of Senators from our part of the country have been considering this bill for the last several days and have agreed upon a certain number of amendments. This group of Senators have asked me to offer these amendments for and on behalf of each of them and of myself. These amendments have been agreed to be accepted by the Senator from Oregon [Mr. McNARY] as far as he can do so. I ask unanimous consent that the amendments be printed in the RECORD, and also that they be printed in the usual way and lie on the table for the use of Senators.

Mr. McNARY. Mr. President——

Mr. HEFLIN. Mr. President, what objection would there be to having them read now?

Mr. McKELLAR. I should be very happy to have them read now.

Mr. McNARY. Mr. President, may I state, following the statement of the Senator from Tennessee, that I feel very kindly toward the purposes of the amendments. I have not said that I would accept them. That is subject to debate and explanation; but I want it understood that there is no obligation resting upon me to accept each and every amendment in its present form.

The PRESIDING OFFICER. What is the request of the Senator from Tennessee?

Mr. SIMMONS. Mr. President, I trust that these amendments may be printed. I have no especial objection to their being read, but they can not be understood unless they are considered in connection with the context; and I think it would be better to have them printed, so that each Senator can get the amendments to-morrow morning and read them in connection with their context in the bill.

I want to say that I sincerely trust that the Senator from Oregon will give his assent to these various amendments. I have myself discussed all of them with him. They have been drawn up after conferences with him, and I did not think he would have any hesitation in throwing the weight of his acceptance in their favor. Of course, that does not relieve the Senate of its power to pass upon the question of whether or not it will accept his suggestion, but it does add the weight of his suggestion in favor of the amendments.

Mr. McNARY. Mr. President, I think I made myself clearly understood. I feel very kindly disposed toward them all, and as far as I can, perhaps I shall accept them as one Member of the Senate; but, as I said, there will be some argument and some discussion, and I want some of them explained.

Mr. SIMMONS. The Senator right now sees no reason why he can not accept these amendments?

Mr. McNARY. Not as I feel at this moment.

Mr. McKELLAR. Mr. President, I want to say to the Senator from Alabama and to the Senate that the form in which the amendments are now presented refers to various parts of the bill; and I believe it will be better, rather than have them read, that the Senator take them in the morning and compare them with the bill itself.

I can say to the Senator that they provide for two substantial changes. The first is in reference to the advisory commodity council. Under the bill, they are appointed by the farm board. Under these various amendments referring to that particular situation, the advisory commodity council will be appointed by the President and confirmed by the Senate.

The commodity councils must be producers of the commodity which they are appointed to represent. They are to be selected by the President, and he may use for his consideration lists which are furnished by farmers' organizations. The term of office is two years, and vacancies are to be filled by the President. These commodity councils, under the proposed amendment, become a very real part of the organization created by the bill.

In a subsequent section it is provided that no marketing period shall be begun or terminated for a commodity without the approval of the majority of the council for such commodity.

It is also provided that in all matters concerning that commodity the advisory council shall have a veto or check upon the farm board. It is just the same as having two Houses of Congress instead of one, except that the advisory council does not have anything to do with the administration of the act, nor do the members have salaries, nor are they in an equal position.

I will say that, in my judgment, these provisions making the advisory council a real part of the organization greatly strengthen the bill.

The next most important part of the bill is the provision increasing the revolving fund from $250,000,000 to $400,000,000, and setting apart $200,000,000 of said fund to be used by the board as a stabilization fund for financing the purchase, withholding, or the disposal of agricultural products as provided in the bill, and that this fund be allocated ratably to the several products according to the values of their exportable surpluses.

Mr. BORAH. Mr. President, have I the floor?

The PRESIDING OFFICER. The Senator from Idaho is entitled to the floor.

Mr. McKELLAR. If the Senator objects to my going on, I will desist.

Mr. BORAH. As these amendments have to be printed, every Senator will examine them for himself; and I am very anxious to get a matter of executive business disposed of.

Mr. McKELLAR. Then I will say to the Senator that these are the principal amendments.

I will now ask unanimous consent that they be printed and lie on the table, and also that they be printed in the RECORD as a part of my remarks.

The PRESIDING OFFICER. Without objection, the request is granted.

Mr. McKELLAR's amendments are as follows:

Amendments intended to be proposed by Mr. McKELLAR to the bill (S. 3555) to establish a Federal farm board to aid in the orderly marketing and in the control and disposition of the surplus of agricultural commodities in interstate and foreign commerce, viz:

On page 3, line 21, after the word "States," insert the following: "shall be the producer of some one or more agricultural products or shall be interested in and truly representative of agriculture."

On page 5, after line 15, insert the following: "No action having a general application to any one commodity shall be taken by the board unless first approved by a majority of the advisory council."

On page 5 strike out line 17 and down through the period in line 1, on page 6, and insert in lieu thereof the following:

"SEC. 4. (a) Whenever the board determines that any agricultural commodity may thereafter require stabilization by the board through marketing agreements authorized by this act, or whenever the cooperative associations or other organizations representative of the producers of the commodity shall apply to the board for the creation and appointment of the advisory council for such commodity, then the board shall notify the President of such determination or application. The President shall thereupon create an advisory council for the commodity. The advisory council shall be composed of seven members, to be appointed by the President, by and with the advice and consent of the Senate. No individual shall be eligible for appointment to a commodity advisory council unless he resides in the region in which the commodity is principally grown and is a producer of the commodity. Prior to the making of any appointment to a commodity advisory council the board shall transmit to the President for his consideration lists of individuals qualified for appointment, to be submitted to the board by cooperative associations or other organizations representative of the producers of the commodity. The term of office of a member of any commodity advisory council shall be two years. In the event of a vacancy occurring, the President shall fill such vacancy in the same manner as the originally appointed member, and, should Congress not be in session, such appointee shall hold office until 20 days after the convening of the next session of Congress."

On page 7 after line 11 insert the following: "No marketing period shall be begun or terminated for any commodity under the provisions of this act without the approval of a majority of the advisory council for such commodity."

On page 10, line 20, after the word "board," insert the following: "Shall submit its findings to the advisory council of the particular commodity concerned, and, if such findings are concurred in by a majority of said advisory council, then the board."

On page 11, line 2, strike out all after the word "as" and insert in lieu thereof the following: "The board finds that such arrangements are no longer necessary or advisable for carrying out the policy in section 1, and if such findings are concurred in by a majority of the advisory council."

On page 13, after word "or," line 19, insert "After giving 12 months' notice to the advisory council of the commodity affected."

On page 13, after the word "office," in line 24, insert "and the approval of the majority of the advisory council."

On page 15, line 2, strike out all after the period and down through the word "publish" in line 4 and insert in lieu thereof the following: "Upon the basis of such estimates there shall be from time to time determined, and if such estimates are concurred in by a majority of the advisory council for such commodity, the board shall publish."

On page 15, line 13, insert "The equalization fee herein provided for upon any commodity shall not be imposed until the same is approved by a majority of the advisory council for that commodity."

On page 15, line 15, strike out "determined upon" and insert "so published."

On page 17, line 20, after the word "transit," insert "or sale for purely local consumption."

On page 20, line 23, after the word "board," insert the following: "Upon recommendation of a majority of the advisory council of the particular commodity."

On page 24, line 1, strike out "two hundred and fifty million" and insert "four hundred million."

On page 24, after line 6, insert the following: "*Provided*, That $200,000,000 of said revolving fund is hereby made available and shall be used as a stabilization fund for financing the purchasing, withholding, or the disposal of exportable agricultural products in the event that a marketing period shall be declared for one or more of such products as hereinbefore authorized, and that said fund shall be allocated ratably to the stabilization funds of the several products according to the values of their respective exportable surpluses."

On page 26, after line 21, insert the following: "The word 'majority' means a majority of the whole board or advisory council authorized to be appointed."

ARTICLE BY HON. MILLARD E. TYDINGS ON NONEXISTENCE OF "INTOLERANT" SOUTH

Mr. COPELAND. Mr. President, in reading the New York Times yesterday I saw a very interesting article from the pen of the junior Senator from Maryland, Mr. TYDINGS, entitled "'Intolerant' South held nonexistent." I ask unanimous consent that it be printed in the Appendix.

The PRESIDING OFFICER (Mr. SHORTRIDGE in the chair). Without objection, the request is granted.

The matter referred to is here printed, as follows:

"INTOLERANT" SOUTH HELD NONEXISTENT—RELIGIOUS BIAS BELOW MASON AND DIXON LINE IS DENIED BY MARYLAND SENATOR—CITES HISTORICAL PROOFS—PRESENT KU-KLUX KLAN, HE ASSERTS, BROUGHT UNDESERVED ODIUM ON SOUTHERN STATES

By MILLARD E. TYDINGS, United States Senator from Maryland

Are the people of the South more intolerant than their neighbors of the North?

Because the present-day Ku-Klux Klan had its origin in the South, in Georgia, and particularly since the recent attacks upon the Roman Catholic Church made in the Senate by a Southern Senator, J. THOMAS HEFLIN, of Alabama, the assertion is frequently made that the South is a section of religious prejudices. It is even contended that the South, because of these prejudices, would go to the political extreme of repudiating the Democratic Party should it place a Roman Catholic on its presidential ticket.

If the South chooses to deny that the people of that section are less tolerant than those of any other, historical facts may be cited with which to support such denial. Indeed, a study of American history inclines one to the opinion that there have been less of bigotry and religious intolerance south of the Mason and Dixon line than in any other part of the country.

If the recent attacks upon the Catholic Church by Senator HEFLIN be cited as proof of southern intolerance, and it be asserted that he speaks for a great many of the southern people, it may be replied that it was another southern Senator, JOSEPH T. ROBINSON of Arkansas, Democratic leader in the Senate, who replied and denied that the Alabama Senator voiced the sentiment of a majority of the southern people. It may be added, also, when Senator HEFLIN challenged a vote of Democratic Senators on the issue raised by the Heflin-Robinson debate, that of the Democratic Senators present when the vote was taken only one withheld a vote of confidence in the Democratic leader of the Senate. It is further true that in the widespread comment by leading southern newspapers on the Heflin-Robinson incident, almost without exception Senator ROBINSON was praised and Senator HEFLIN was condemned.

SENATOR REED'S REPLY

The South could cite the further fact that during the last Congress, when Senator HEFLIN concluded a similar attack on the Catholic Church, it was Senator JAMES A. REED of Missouri, another Southern State, who arose in his place and uttered these memorable words:

"The spirit of real religion is that of tolerance. Bigotry has no place beneath the spire of a Protestant tabernacle, under the cross of a Catholic church, or within the walls of a Jewish synagogue. If this country is to live, then these fountain springs bearing the pure waters of liberty must not be polluted with the poison of hate, covered with the slime of proscription, or polluted by the spirit of intolerance."

These are among the replies the South might make to the charge of intolerance.

But to go back through history and trace the record. It may not be truthfully denied that there are bigotry and intolerance in the South, as elsewhere in America. There have been ever since the landing of the *Mayflower*. Indeed, the seeds of intolerance in English America were first sown in New England soil, not in a southern colony. When the Puritans in England were preparing for their voyage across the Atlantic to the New World, a paper was circulated among them setting forth reasons and arguments for making the journey. The very first reason assigned in this paper was "the glory of opposing the French Jesuits in Canada and of raising a particular church in New England." The quotation is from the recent work of Perry Belmont, Religious Tolerance From Roger Williams to Jefferson, in which R. C. Winthrop's Life and Letters of John Winthrop is cited.

MARYLAND'S CONTRIBUTION

In contrast with the intolerance which prevailed in the New England colony was the establishment of the colony of Maryland, where the tree of tolerance and real religious freedom was first planted on English soil in America and where that tree has reached its fullest fruition, and Maryland is called to this day the "Free State." Maryland's most famous citizen was Charles Carroll of Carrollton, a Catholic, signer of the Declaration of Independence and subsequently United States Senator.

The contribution of the Southern State of Virginia to the spirit of tolerance and religious freedom was the famous statute of religious freedom, fathered by Thomas Jefferson and supported by Madison, Monroe, Patrick Henry, and other great Virginians and southerners of that period. It was the influence of Madison, supported by that of Jefferson, which wrote into the American Constitution the declaration that "Congress shall make no law respecting the establishment of religion, or prohibiting the free exercise thereof." Jefferson wrote in his Notes on Religion that "It's the refusing toleration to those of a different

opinion which has produced all the bustles and wars on account of religion."

It was James Madison, the Father of the Constitution, who declared during debate in an early Congress when the alien law, passed under the Presidency of the first Adams, was pending that "there is nothing in their [Catholic] religion inconsistent with the purest republicanism."

If it was in Virginia, where a statute of religious liberty was first adopted, it was in New York that, through the influence of John Jay, the Federalist, a provision was written into the Constitution denying the privilege of citizenship to Catholics unless they abjured and renounced their allegiance to the Pope "in matters ecclesiastical"—not merely in civil or temporal matters but in everything that related to their religious faith. This provision remained in that Constitution until 1821.

New Jersey had in its constitution a provision equally obnoxious to Catholics, and it was not until 1833 that Massachusetts repealed a tax for the support of the established Protestant Church and collected it from Protestants and Catholics alike.

It was not until 1877, barely more than a half century ago, that New Hampshire repealed a provision of her constitution under which Catholics were ineligible to hold public office. Yet it was Senator GEORGE MOSES, of that State, who, following the recent Heflin-Robinson debate in the Senate, taunted the Democrats in the Senate on the "Republican" speeches which had just been made by the southern Democrats on the issue of religious tolerance.

There were other instances of constitutional and statutory proscription of Catholics in Northern States, but so far as a fairly careful study discloses no southern State has ever made a man's religious faith a test of his fitness for office or has ever denied to Catholic or Jew any of the privileges or rights enjoyed by Protestants. Certainly no southern State or colony ever went to the extreme of the New England colony which, in its "blue laws," prohibited the discharging of firearms on the Sabbath unless they were aimed at "an Indian, a wolf, or a Catholic priest."

THE KLAN STANDS ALONE

With the single exception of the present-day Ku-Klux Klan, no anti-Catholic or anti-Jewish organization of importance has ever had its origin in the South. There have been four such movements in the country that have become important. They were the Native American movement of the first quarter of the last century, the Know-Nothing Party of the fifties, the American Protective Association of the nineties, and the present-day Knights of the Ku-Klux Klan.

The Native American movement was really a movement inside the Federalist, the dominant party of the early years of the nineteenth century. It made numerous efforts to write its principles into the legislation and policies of the Government. Those principles were: Proscription of those who professed the Roman Catholic faith and exclusion of foreign-born citizens from all public offices, national, State, and local. For the most part, these efforts were unsuccessful, exceptions being the alien and sedition laws of the John Adams administration. All such efforts were strongly, and, for the most part, successfully resisted by the Democratic-Republican Party, then fast growing under the cultivation of Jefferson and Madison. Undoubtedly much of the anti-Irish and anti-Catholic feeling of the day was due to the prejudices of the Tories of the Revolutionary period and a few years thereafter. They were pro-English and most of them were members of the Established Church of England. They strongly resisted the efforts of Patrick Henry and Thomas Jefferson and others to disestablish that church in Virginia and elsewhere in the colonies. In part, too, this accounts for the Irish coming to America, joining the party of Jefferson, the Tories being almost wholly in the Federalist ranks.

With the possible exception of the Ku-Klux Klan of this day, it was the Know-Nothing Party of the fifties which attracted the largest membership to its ranks and became the most important political factor in the country of all of the movements based upon religious or racial prejudices. This party was formally organized in New York City in 1852. Its purposes were declared to be to "resist the insidious policy of the Church of Rome" and to "place in all offices of honor, trust, or profit in the gift of the people or by appointment none but native American Protestant citizens." It was a revival of the Native American Party of a half century earlier.

NOT POPULAR IN THE SOUTH

The Know-Nothing Party gained many successes in municipal elections, winning control in numerous northern and eastern cities and electing its candidates for governor in New York, Connecticut, Rhode Island, and New Hampshire. But it made very little headway in the South and sustained a notable reverse in Virginia, where Henry Wise was elected governor on his antagonism to "Know-Nothingism." In the presidential campaign of 1856 this party nominated former President Millard Fillmore, of New York, for President. As Jefferson and Madison had answered a similar challenge a half century earlier, the Democratic Party met the issue raised by "Know-Nothingism" in 1856 by writing into the platform of its convention at Cincinnati the following plank:

"A political crusade in the nineteenth century and in the United States of America against a Catholic and foreign born is neither justified by the past history nor the future prospects of the country, nor in unison with the spirit of toleration and enlarged freedom which peculiarly distinguishes the American system of popular Government."

This convention was dominated by southerners. It nominated James Buchanan, of Pennsylvania, for the Presidency. He was elected, receiving 174 electoral votes to 114 cast for Frémont and but 8 for Fillmore. Frémont was the nominee of the Republican Party, which entered the political arena in that year. Its convention, held in Philadelphia, denounced slavery and polygamy but did not meet the challenge of religious bigotry.

Feeling ran very high during the period of "Know-Nothingism," from 1851 to 1858, and there were numerous riots and considerable bloodshed. Catholic churches, schools, and convents were attacked, some were burned, some blown up. The rioting was especially vicious in Philadelphia and in certain sections in New England, but with the single exception of Louisville, Ky., a border city, there was no serious disturbances anywhere in the South.

THE "A. P. A." INFLUENCE

The next important movement of the kind was the American Protective Association of the nineties. The first "council" of the A. P. A., as it came to be commonly known, was organized in Clinton, Iowa, in March, 1887. Its national president was William S. Linton, a Republican Member of Congress from Michigan. Its members were bound to "place political positions in the hands of Protestants to the exclusion of the Roman Catholics." It first appeared as a serious factor in politics in Omaha, Nebr., in the municipal election of 1891, when the society indorsed the Republican ticket and swept the city by a heavy majority. When it spread across the border into the South and demanded of Gov. William J. Stone, of Missouri, later United States Senator, that he blacklist all Catholics in making appointments to office, he replied:

"Your association is undemocratic and un-American, and I am opposed to it. I haven't a drop of Know-Nothing blood in my veins."

Although the A. P. A. party spread through the North and East and gained political dominance in many cities from 1893 to 1896, it made little headway in the South except in the border cities of Louisville and St. Louis. Many Democratic conventions, local and State, denounced the movement, and the answer to its challenge made by President William McKinley was to appoint Joseph McKenna, of California, a Catholic, to his Cabinet and later to the Supreme Court.

Thus it will be seen that with the exception of the present-day Ku-Klux Klan, none of the antichurch or antiracial movements had its origin in the South or made any serious headway in that section. It may be inserted here that the Ku-Klux Klan was really organized in Georgia as an antiracial rather than a religious movement; also that while it gained a very large following in that section, it has died away with almost as much rapidity, and it is now generally believed that its membership is much greater in certain Northern States, notably Pennsylvania and Indiana, than in any Southern State.

NO PREJUDICE IN POLITICS

In the South's history the names of many Catholics and Jews are written in large letters, and the people of that section have honored many men of the Catholic and Jewish faiths with high public positions. The parents of Jefferson Davis, President of the Confederacy, must have felt no prejudice against the Catholic Church, for they kept him in a Catholic school for two years; and in his autobiography he wrote most cordially and appreciatively of his associations during that period of his life. In making up his cabinet President Davis named Stephen R. Mallory, of Florida, as Secretary of the Navy. He was a Catholic and had been a member of the United States Senate from Florida. Judah P. Benjamin, of Louisiana, a Jew, was appointed Attorney General by President Davis, and later was transferred to the War Department. The second Stephen R. Mallory, also a Catholic, was Senator from Florida from 1896 until his death in 1907, being succeeded by the present senior Senator from that State, DUNCAN U. FLETCHER. Before entering the Senate the younger Mallory was for two years Representative of one of the Florida districts in the House of Representatives.

The most brilliant naval officer in the Confederate service was Admiral Raphael Semmes, of Alabama, commander of the raider *Alabama*. He, too, was a Catholic. A cousin, Thomas Semmes, one of the most noted attorneys of Louisiana, was one of the Senators from that State in the Confederate Congress.

Some of the most brilliant generals in the Confederate Army were Catholics, notably P. G. T. Beauregard, of Louisiana, and Gen. James Longstreet, of Georgia, the latter a convert to the Catholic faith.

In the late World War many of the men called to important posts were members of the Catholic or Jewish faiths. Lieut. Gen. Robert L. Bullard, of the Army, and Admiral W. S. Benson, of the Navy, were Catholics. President Wilson, a Virginia Democrat, chose for his private secretary Joseph Tumulty, of New Jersey, a Catholic; Edward N. Hurley, chairman of the Shipping Board, a Catholic, and Bernard

Baruch, chairman of the War Industries Board, a Jew, were among other appointments made by President Wilson; but probably the most notable of his entire eight years in the Presidency was the appointment of Louis D. Brandeis, of Massachusetts, a Jew, to the United States Supreme Court.

SOUTHERN CHIEF JUSTICE

Two southerners have presided as Chief Justice of the Supreme Court of the United States—Roger B. Taney, of Maryland, and Edward D. White, of Louisiana, both members of the Catholic faith.

In the present Congress there are 5 Senators and 35 Representatives who are communicants of the Catholic Church. Three of the Senators are from the South, RANSDELL and BROUSSARD, of Louisiana, and ASHURST, of Arizona. In neither of these States is the Catholic population in the majority. Before he entered the Senate, Senator RANSDELL was for 14 years a member of the House of Representatives from a Louisiana district in which less than 5 per cent of the population are Catholics. In all his long public career the religious issue has not been raised. On the other hand, one of the present members of the House of Representatives from Louisiana is WHITMELL P. MARTIN, a Protestant, whose district is almost as overwhelmingly Catholic as the old Ransdell district is Protestant. Yet he has represented the district for 20 years, and his Catholic constituency has not raised the religious issue against him.

The South has not forgotten and will never forget that when Jefferson Davis, the Confederate president, was in irons, charged with treason, it was Charles O'Conor, the brilliant New York attorney, a Catholic, who prosecuted and convicted "Boss" Tweed, who came to his defense. It is the general belief that it was the appearance of O'Conor in the case that caused the Federal authorities to withdraw the charges lodged against Davis and to strike the shackles from his limbs. It was this same O'Conor who was subsequently nominated for the Presidency by a faction of the Democratic Party. This was in 1872. Although he declined to make the race, some 30,000 voters wrote out their ballots that they might cast them for him.

It may be said that the list of Catholics and Jews in the foregoing who have been honored by the people of the South is not long, that relatively the number is few as compared with all who have held high office in the South. To that it may be replied that the list is not a full one, and if it were, it may be further added that relatively there are few Catholics and Jews in the South.

The list of Catholics and Jews whom the electorate of the South have honored would indicate that in the past, at least, the South has not made religious faith a test of fitness for public office, and that when her sons were donning the gray to follow Lee and Jackson to glorious defeat, the accidents of birth and religious convictions were not made a test of fitness to serve or command.

EXECUTIVE SESSION

Mr. BORAH. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After five minutes spent in executive session the doors were reopened.

RECESS

Mr. CURTIS. I move that the Senate take a recess until to-morrow at 12 o'clock noon.

The motion was agreed to; and (at 4 o'clock and 40 minutes p. m.) the Senate took a recess until to-morrow, Tuesday, April 10, 1928, at 12 o'clock meridian.

CONFIRMATIONS

Executive nominations confirmed by the Senate April 9, 1928

POSTMASTERS

ARIZONA

John A. Williams, Hayden.

COLORADO

Charles C. Hurst, Antonito.
Harry D. Steele, Holly.
Martha H. Foster, Olathe.

INDIANA

William H. Williams, jr., Muncie.

KANSAS

Chester M. Cellar, Burlington.
Josie B. Stewart, Sylvan Grove.

KENTUCKY

Flo W. Stamper, Beattyville.

MICHIGAN

C. Clyde Beach, Deerfield.
Charles J. McCauley, Wells.

MINNESOTA

Charles G. Carlson, Gibbon.
Ruth Anderson, Lindstrom.
Louis Vinje, Morris.
Henry Goulet, Onamia.
George Neumann, Osseo.
Nils B. Gustafson, Stacy.
Louise S. Lundberg, Taylors Falls.
Lucien M. Helm, Tower.

MISSOURI

Cleo J. Burch, Brookfield.
Robert D. Gardner, Center.
Abraham M. Smelser, Grandin.
Byron Burch, Linneus.
Ada J. Barker, Marquand.
Otis H. Storey, Senath.
Tyree C. Harris, Windsor.

NEBRASKA

George W. Bennett, jr., Arnold.
Eva R. Gilbert, Broadwater.
Ernest G. Miller, Lynch.
Robert G. Walsh, Morrill.
Horton W. Bedell, Peru.
Thomas W. Cook, Scotia.

NEVADA

Dora E. Richards, Sparks.

NORTH DAKOTA

Guy E. Abelein, Anamoose.

OHIO

Harry R. Hebblethwaite, Berlin Heights.
Rollo J. Hopkins, Edgerton.
Clayton O. Judd, Garrettsville.
Edward C. Bunger, Lewisburg.
John F. Adams, Lisbon.
Austin H. Bash, Strasburg.

OREGON

Thomas F. Johnson, Hood River.
Charles E. Lake, St. Helens.

PENNSYLVANIA

William E. Brooks, Ridley Park.

TENNESSEE

John M. Whiteside, Bellbuckle.
Lula C. Beasley, Centerville.
Luther D. Mills, Middleton.

TEXAS

Ewald Straach, Miles.

HOUSE OF REPRESENTATIVES

MONDAY, *April 9, 1928*

The House met at 12 o'clock noon.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

Heavenly Father, Thou knowest our frame and art touched with a feeling of our infirmities; Thou dost condescend to hear our prayer. In some strange way the storm winds and the port are friends. Do Thou touch the eternal in us. Awaken in us the deepest concern to feel Thy presence, to be stirred by Thy truth, to have faith in the unseen, and to follow the aspiration to leap over the boundary of time. Devoid of these, we may yield to that which destroys character, defeats progress, and forbids happiness. Whatever the exactions of each day may be, teach us to be patient and zealous. Come with us, bless us, and help us to dignify common toil and to consecrate the hard, homely things of life, and to pass on to others sweet charity and cloudless hope. Through Christ. Amen.

The Journal of the proceedings of Friday, April 6, 1928, was read and approved.

NATIONAL FOREST—CARSON

Mr. MORROW. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H. R. 9829) to extend the provisions of the act of Congress approved March 20, 1922, entitled "An act to consolidate national forest lands," with Senate amendments, and agree to the Senate amendments.